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Date: **26 FEB 92**

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR K KELLY
BUILDING: SHOOTERSWAY BARN SHOOTERSWAY BERKHAMSTED HERTFORDSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeal against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned building. I have considered the written representations made by you and by the Council, and I inspected the site on the 27th January 1992.

- 2. a. The notice was issued on the 14th February 1991.
- b. The breach of control alleged in the notice is the failure to comply with condition Nos (2), (6) and (9) subject to which planning permission was granted.
- c. The permission (No 4/1755/86) was granted on the 13th July 1987 and was for the conversion of a barn to a dwelling.
- d. The conditions which are alleged not to have been complied with are as follows:-

"(2) Notwithstanding the provisions of the Town and Country Planning General Development Order 1977 or any subsequent amendments thereto, there shall be no alteration or extension to the building other than as may be included on plan No 4/1755/86 (hereinafter "the approved Plan") without the prior consent in writing of the local planning authority.

(6) No part of the timber frame of the barn shall be cut or removed without the consent of the local planning authority. Any parts which are cut or removed shall be repaired or replaced in accordance with a scheme to be approved by the local planning authority.

(9) The barn doors shall be removed and stored for re-use on the development hereby permitted."



- e. It is alleged that the conditions have not been complied with as set out in Appendix 1 to this letter.
- f. The requirements of the notice are set out in Appendix 2 to this letter.
- g. The period for compliance with the notice is six months.

3. Your client's appeal is proceeding on ground (a) as set out at section 174(2) of the 1990 Act, that is to say, that the conditions which are alleged not to have been complied with ought to be discharged.

APPEAL BUILDING

4. Shootersway Barn is a building of special architectural or historic interest, which is listed Grade II as part of a group of listed buildings including Shootersway Farmhouse, situated in the Metropolitan Green Belt and the open countryside of the Chilterns Area of Outstanding Natural Beauty. The appeal building is described in the listing schedule as being an 18th century barn, timber-framed on a red brick sill, with dark weatherboarding. The description also mentions that it is tall with 5 bays and faces east, having a gabled porch and single large door. It had a side-purlin roof with unjowled posts.

5. Following the grant of listed building consent and planning permission in July 1987 the barn has been extensively rebuilt as a dwelling. The structure now consists of new load-bearing walls of red brick and thermal blockwork, inside of which are some remnants of the original timber frame. These have been salvaged from the historic building and do not appear to be in their original positions, because the original timber members have been cut and pinned together in a decorative manner on some of the internal walls. On the external facades of the new blockwork walls new weatherboarding has been fixed onto battens and stained black. The original oak roof trusses and purlins have been re-assembled with new oak posts, but the rest of the roof appears to have been reconstructed at a lower pitch and covered with old and reclaimed clay tiles to match the original.

APPEAL ON GROUND (a) AND DEEMED APPLICATION

6. The deemed application in this case is to retain the building without complying with the condition Nos (2), (6) and (9), and I consider that the main issues to be decided in your client's appeal are whether the conditions are relevant and necessary to the development granted consent in 1987 and whether the development as carried out in breach of the conditions preserves the character and historic features of the listed building and the setting of the adjoining listed farmhouse.

7. Under section 56(3) of the 1971 Act (now s 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990), in determining the planning application the Council was required to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest that it possesses. In this context, it appears to me that the conditions were formulated in order to ensure that the design of the approved scheme was carried out, that as much of the original fabric and appearance of the historic building as possible was retained in the conversion, and to prevent the addition of development normally permitted by the General Development Order within the domestic curtilage.

8. Such considerations of the effect of the development upon the character and appearance of the listed building and upon its setting are in my view entirely appropriate, especially as the building lies within the Metropolitan Green Belt and the Area of Outstanding Natural Beauty, where planning policies resist strongly residential development. Having received and approved an acceptable scheme for conversion of the barn into a dwelling, the local planning authority imposed

conditions (2), (6) and (9), which were intended to ensure that the correct roof profile, windows and doors, together with existing features such as shutters and barn doors, were incorporated into the works. With regard to its external appearance, condition (2) aims to prevent any alterations or extensions to the building as shown on the approved plans without prior written consent and condition (9) seeks the preservation of the barn doors. Condition (6) is to ensure the preservation of the timber frame, an integral part of the listed building.

9. On this issue therefore, I conclude that the conditions are appropriate and necessary to ensure that the development is carried out properly, and to retain the traditional rural vernacular appearance of the building within the AONB.

10. With regard to the second issue, some of the alleged alterations are not disputed by your client, whilst others are. You have not appealed on grounds (b) or (c), that is to say, that permission is not required for the alleged works or that the alleged alterations have not taken place at all, except where you state that some works were carried out in accordance with the approved plans. However I have considered the roof, eaves and frame allegations and conclude that, with one small exception, unauthorised alterations have taken place in each case. The roof, as rebuilt, is at a different angle of pitch to the original and to that shown on the approved plans; the eaves height difference between the gabled projection and the main roof north of it on the south-east elevation has been eliminated, but that is shown as a proposal on the approved plans; the low eaves to the south of the gabled projection on the same elevation appears to have been raised; and the boxed eaves has been added all round whereas the rafter ends were originally exposed. Apart from the loss of the small step in the eaves height, these alterations have been carried out without the Council's consent, and consequently I find that the allegations are correct and had your client appealed on ground (b) or (c) it would have failed. With regard to the uniform eaves height of the projecting porch and the main roof, I consider that this has been executed in accordance with the approved scheme and accordingly an appeal on ground (b) would have succeeded because no further planning permission is necessary, and therefore this matter does not fall to be considered under ground (a) of your client's appeal.

11. As to whether the conditions ought to be discharged, I intend to assess on its merits each element of the alterations to the approved scheme that have taken place. The Council's photographic evidence shows that in December 1989 the building was in poor condition structurally and not weathertight, and I accept that the approved drawings indicate that a considerable amount of rebuilding and re-roofing was required in 1987. I am also aware from the Council's photographs taken in April 1990 show that the storms of late January that year had severely damaged the building.

Roof Pitch

12. The approved plans show clearly in graphic and written form that a new structural shell of thermal blockwork on a brick plinth would be erected around the existing timber frame which would be made non-loadbearing as a feature inside the rooms. The roof is indicated to be clay peg tiles on battens and 100 mm x 50 mm rafters, which would be extended over the 215 mm block wall to take a gutter. Consequently it could have been foreseen by the Council that a new roof with a wider span would be necessary as part of the conversion. The pitch of the roof is constrained also by the retention of the original oak trusses.

13. The Council claims that the building is now a poor pastiche of the original barn, it has lost its simple, functional agricultural character and its roof alterations have given it a squat, regular form that is urban in character. As a result of the lower pitch and raised eaves level, it is claimed that the house detracts from the setting of Shootersway Farmhouse and the character of the Chilterns Area of Outstanding Natural Beauty.

14. From my inspection, it appears that the original tie-beams and struts supporting the original purlins have been re-used in reconstructing the roof and the result of this, combined with the extra eaves width due to the new blockwork envelope, has lowered the pitch by about four degrees. Whilst this has undoubtedly made a visible difference in appearance between the original and the rebuilt barn building, particularly in views of the gable ends, in my opinion it is slight and does not in itself cause visual harm to the setting of the adjoining listed building, the Green Belt or the Area of Outstanding Natural Beauty.

Eaves Construction

15. The low eaves of the aisle on the south side of the gabled projection seems to me to have been built at a slightly higher level than the original, as the Council claims, but this again is probably caused largely by the change in angle of pitch of the main roof. The brick plinth to the aisle appears to be much higher than the original, but the approved elevations do not show clearly the intended treatment of this wall. However, on site I observed that the ground level around this end of the house has been lowered significantly, which could account for the taller brick plinth and the loftier appearance of this wall. As with the original, the difference in eaves height between the aisle roof and the projecting gable on this south-east elevation remains substantial however, and I do not regard this minor alteration as being harmful to historic building and rural landscape interests.

16. There is no evidence that the barn roof had sprockets at the main eaves, because the rafters appeared to run straight through from the ridge across the purlins to the eaves with the rafter ends, rather than "sprockets" as the Council states, exposed along the south-east and north-west elevations. Again it is not clear from the approved elevations whether it was intended to box in the eaves with a gutter-board and horizontal soffit, but the cross sectional drawing (Section AA at 1:50 scale) does not show them. It is not disputed by you that the original barn had exposed rafter-ends in these positions, and as the Council points out such a detail is traditional in vernacular buildings in the rural area. I take the view that these are important details and the treatment of the eaves should be consistent with the period and style of the building. The use of a modern boxed eaves on the principal elevations of this listed building appears out of character and harms the appearance of the building in my opinion. This is further exacerbated by the addition of "heels" on the corresponding ends of the barge boards on the gable elevations in order to complete the box effect. In my view these gutter boards, soffit boards and extensions on the bargeboards could be simply removed to render the conversion more in keeping with the historic character of the listed building.

Windows

17. Paragraph 2(iii) of the allegation (Appendix 1) describes the difference between the approved treatment of the south-east elevation of the projecting gable, and the entrance screen as constructed. There are 3 main differences; the double entrance doors are glazed instead of vertically boarded; there is a weatherboarded spandrel between the doors and upper windows instead of being fully glazed; and the top triple-light apex of the glazed panel has been omitted, thus providing six lights instead of nine. In my view the approved scheme would have been more strikingly non-traditional than that which has been carried out, as the incorporation of some weatherboarding between and above the glazed openings relates more sympathetically to the scale of the large barn door that existed on this projecting entrance porch. It appears to me that less glazing with a weatherboarded apex to the gable is more in keeping than the approved scheme, and I find therefore that this alteration does less harm to the building or the surrounding area compared to that approved.

18. Paragraph 2(iv) deals with the alterations to the proposed fenestration of the northern part of the south-east elevation facing Shootersway Farmhouse. A random disposition of a 2-light window close to the projecting bay at first floor and a 4-light window offset to the north at ground floor were approved, but your client has installed a single and a 2-light window to both first and second floors, directly above each other. Fenestration of any type is not traditional in a timber framed Hertfordshire barn, and where conversion to a residential use is desirable in order to preserve the listed building in the countryside as part of the farmyard group, it is difficult to provide light and ventilation without destroying the historic character of the original barn. The Council had decided that the informal arrangement of a variety of window sizes shown on the approved plans would be acceptable, but in this instance your client has chosen to install 4 windows of regular size and uniform pattern. In my view the result has a domestic appearance that looks out of place on the listed building, within the historic group of farm buildings. These alterations to the approved plans are significantly more harmful to the character of the listed building, its features of historic importance and the setting of the adjoining farmhouse, and therefore, in my view they should be removed.

19. At the southern end of this south-east elevation paragraph 2(v) of Appendix 1 states that your client has inserted a 3-light window and a door instead of a 2-light and a 4-light window on the ground floor. However the door is a braced and battened boarded door that blends with the weatherboarded wall of the building, and in my opinion it is no more conspicuous than the 2-light window would have been in the same position. Similarly, the installation of a 3-light instead of a 4-light window seems to be of little consequence in this position. I consider therefore that these alterations should be allowed to remain.

20. Paragraphs 2(vi) and 3(vii) refer to a wooden shutter and double timber doors missing from the first floor window and the original cart entrance on the north-west elevation. As these are original features of the listed building that are shown to be retained on the approved elevation drawing, it is clear to me that they should be reinstated in order to retain the character of the agricultural building.

21. I have taken into account all other matters raised in your client's appeal and in summary, I have decided that items 1(i) - roof pitch and eaves heights, 2(iii) - glazed entrance porch, and 2(v) - window and door on the southern part of the south-east elevation - should be allowed to be retained. Therefore your client's appeal on ground (a) succeeds to the extent that I shall vary the requirements of the notice so as to exclude these items.

22. However, I do not consider it appropriate to grant planning permission for the application deemed to have been made under section 177(5) of the Act for the retention of the development without complying with the conditions, because I regard their imposition as being necessary and appropriate to the development. In this case though, it remains open to your client to apply separately for planning permission for those alterations to the building which I find acceptable and have deleted from the steps to be taken in the requirements of the notice.

FORMAL DECISION

23. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the notice be varied by:-

- (a) the deletion from the steps required to be taken in Schedule 5 of the notice (Appendix 2 to this letter) of paragraphs (i), (iii) and (v), and
- (b) the deletion of the word "sprockets" from paragraph (ii) and the substitution of the words "rafter-ends".

Subject to these variations, I hereby uphold the notice and dismiss your client's appeal, and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act.

RIGHT OF APPEAL AGAINST DECISION

24. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Sir
Your obedient Servant

C. I. Cochrane .

C I COCHRANE DipArch MSc MRTPI
INSPECTOR

APPENDIX 1

ALLEGED BREACH OF PLANNING CONTROL

1. Failure to comply with the conditions cited in Schedule 3 of the enforcement notice in that insofar as planning conditions (2) and (6) are concerned:-
 - (i) The pitch of the roof to the barn, its aisle and gabled projection has been reduced to 42° without the Council's consent when the aforesaid pitch was estimated to have been 46° originally, it being acknowledged that the foresaid pitch was inaccurately shown on the approved Plan to be 49° and correspondingly the heights of eaves of the main roof and of the aisle and of the gabled projection have been altered and therefore do not conform with the approved Plan.
2. Insofar as planning condition (2) specifically is concerned:-
 - (ii) The eaves of the barn have been boxed thus concealing the sprockets which were shown as being exposed on the approved Plan and which were exposed on the original barn, without the Council's consent.
 - (iii) A screen incorporating a pair of glazed doors and six glazed panels, with weatherboarding in between the doors and the panels, has been constructed in the gable on the south-east elevation and weatherboarding has been installed in the apex above the upper three glazed panels in the aforesaid gable without the Council's consent instead of a system of glazed panels extending up into the apex of the gable above a pair of vertically boarded timber doors.
 - (iv) One single light window and one two light window have been inserted at ground floor level and one single light window and one two light window have been inserted at first floor level to the north of the gabled projection on the south-east elevation without the Council's consent instead of the one two light window at first floor level and the one four light window at ground floor level shown on the approved Plan.
 - (v) One three light window has been inserted at ground floor level and one door has been inserted to the south of the gabled projection on the south-east elevation without the Council's consent instead of one four light window at ground floor level and one two light window also at ground floor level as shown on the approved Plan.
 - (vi) A shutter to the window at first floor level on the north-west elevation, which was a feature of the original barn, has not been installed in accordance with the approved Plan and the Council has not consented to its omission therefrom.
3. Insofar as planning condition (9) specifically is concerned:-
 - (vii) The original double doors to the central opening on the north-west elevation have not been reinstated in accordance with the approved Plan.

APPENDIX 2

REQUIREMENTS OF THE NOTICE

Steps required to be taken:-

- (i) Remove the roof to the barn, its aisle and gabled projection and reinstate with a roof pitch of 46° with the eaves of the gabled projection 600 mm below the eaves to the main roof and the eaves to the aisle 900 mm above the plinth which has been constructed.
- (ii) Remove the boxed eaves construction and replace with exposed sprockets, as on the original barn and shown on the approved Plan.
- (iii) Remove the existing screen described in (Appendix 1(iii)) ante from the projecting gable and the weatherboarding from the apex of the projecting gable above the screen on the south-east elevation and replace with the system of glazed panels above a pair of vertically boarded timber doors shown on the approved Plan.
- (iv) Remove the one single light window and one two light window at ground floor level and the one single light window and one two light window at first floor level to the north of the gable on the south-east elevation and insert one two light window at first floor level and one four light window at ground floor level in the positions shown in the approved Plan.
- (v) Remove the one three light window at ground floor level and one door to the south of the gable on the south-east elevation and insert one four light window and one two light window in the positions shown on the approved Plan.
- (vi) Hang a shutter to the window at first floor level on the north-west elevation as shown on the approved Plan.
- (vii) Re-hang the original double doors to the central opening on the north-west elevation or in the event that the original double doors are no longer available for re-use replace with replicas thereof.