



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Your reference
MDC/DEP/5/14168
Council's reference
4/0754/92EN
Our reference
APP/C/92/A1910/621023/P6
Date 22 DEC 92

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR D A DONALDSON
LAND AT HATCHES CROFT, BRADDEN LANE, GADDESSEN ROW

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 land. I held an inquiry into the appeal on 2 December and inspected the site on 3 December 1992. At the inquiry an application was made on behalf of your client for an award of costs against the Council. This is the subject of a separate letter.

2. a. The date of the notice is 29 April 1992.
- b. The breach of planning control alleged in the notice is the change of use of the land to use for the stationing of a mobile home.
- c. The requirements of the notice are to remove the mobile home from the site, and stop using the land for stationing a mobile home.
- d. The period for compliance with the notice is one year.

3. Your client's appeal is proceeding on grounds (a) and (g) of section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, ground (e) having been withdrawn by your letter of 16 October 1992.

Site and surroundings

4. The site is a rectangular plot of land of about 2.4 ha (6 acres) on the north-west side of Bradden Lane, which is a narrow rural road linking the A4146 with the hamlet of Jockey End. The land nearest the road is divided into two parts by an overgrown hedge. The mobile home is sited in the eastern corner of the south-western part, and consists of two former mobile homes with additions linking them and providing a small porch; wooden skirting has been placed around the bases. Internally it has a kitchen, living room, shower room and 3 bedrooms; mains water and electricity are provided. The exterior is painted cream with red bands. There is a small garden on the east side. The frontages to Bradden Lane and the track to the west are marked by 1.8 m close-boarded fencing. There is a vehicular access to



Bradden Lane flanked by brick walls and brick pillars with ornamental mouldings. I gather that the fencing and walls are the subject of separate enforcement action by the Council.

5. The access mentioned above leads to a gravelled parking area south-west of the mobile home. North-west of that is a concreted yard with a range of buildings set round it. These are mainly of blockwork or wood with corrugated roofs. There are stables which at the time of my visit contained perhaps a dozen goats and a pony, a small poultry shed, a cattle shed which housed some 15 mostly young cattle, and barns containing hay, farming implements and the like. The other part of the land nearest the road, north-east of the mobile home, is a paddock, empty at the time of my visit, with a corrugated cattle shelter.

6. The rest of the site north-west of the above areas is grazing land which was unoccupied at the time of my visit except for an area more or less in the middle of it. This area had been marked off with temporary fencing and netting, and contained 4 small hen houses and runs with a number of chickens. I gather from the evidence that there were about 300 hens in all.

7. The site is in an area with a dispersed settlement pattern, Jockey End being the only significant nucleus within a couple of miles. However there are numerous small groups of farm buildings and isolated dwellings, including Hatche's Farm opposite the appeal site and Widmore Farm to the north-east.

Appeal on ground (a)

8. The appeal site was purchased by your client from the previous owner, Mrs Ford, in 1990. It appears that she first rented the site in 1973 and farmed it from then on, chiefly with sheep and calves but also with goats and chickens, purchasing the site as a separate holding from Hatche's Farm in 1980. You submitted an aerial photograph dated 1973 showing a caravan on the land then, but it had no permission and whether it remained subsequently is uncertain. Planning permission for the present mobile home was given in 1986, it being on the land at that time, for a 3 year period and personal to Mrs Ford. An outline application for a permanent dwelling was refused in 1989, but permission was then given for the retention of the mobile home for a further 3 years, again personal to Mrs Ford. Under the terms of that permission, it ceased to apply in 1990 when your client began living in the mobile home.

9. You say that when your client purchased the site, he was not aware of the terms of the planning permission. Since then however, he has taken steps to continue and develop the land as a smallholding. In addition to the appeal site, he has taken on the grazing of 17 acres at Silsoe which Mrs Ford used to use, and 35 acres at Six Tunnels Farm, Gaddesden Row. He also grazed 22 acres at Caddington in 1991. In 1992 he fattened 40 beef store cattle which he has now sold. More recently he has been building up a free range poultry business. He has obtained a general advice document from the Ministry of Agriculture's ADAS Agency dated December 1991, and a further report of October 1992 which states that a free range poultry enterprise on this land when fully established could produce a gross margin of £15,114 per annum. He has obtained further advice from the Poultry and Smallholders Centre; and you supply a list of other people that he has contacted for advice although you give no information about any response. On site he has concreted the yard and set up the 4 mobile poultry houses mentioned above. You say that he cannot go any further until he knows the outcome of this appeal. He has made an offer to purchase 7½ acres to the north-west of the site.

10. In deciding this appeal, primary weight should be given to the relevant planning policies. The site is within the Chilterns Area of Outstanding Natural Beauty (the AONB) in respect of which policy 2 of the approved County Structure Plan states that the preservation of the beauty of the area will be the prime con-

sideration. This is reflected in policy 23 of the Dacorum District Plan, adopted in 1984, and in policies 88 and 89 of the deposit draft Dacorum Borough Local Plan. It is in a rural area beyond the Metropolitan Green Belt but outside any settlement: policy 52 of the Structure Plan states that in such areas development will be allowed only where strictly necessary for an agricultural, forestry or local community purpose. This is carried forward into policy 2 of the District Plan and policy 5 of the draft Local Plan.

11. It may be deduced from the above that an agricultural dwelling would be acceptable on this site provided that it was strictly necessary and subject to the preservation of the beauty of the area. More detailed national policy advice is provided by Planning Policy Guidance note 7, as revised in January 1992 (PPG7). Annex E emphasises that allowing a dwelling in the open countryside is a concession. It will be important to establish that stated intentions to engage in farming are genuine, are reasonably likely to materialise, and are capable of being sustained for a reasonable period of time. It will also be important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby. Where there is evidence supporting an application for an agricultural dwelling but it is inconclusive, perhaps because there is uncertainty about the sustainability of a proposed enterprise, the local planning authority may wish to consider whether to grant permission for the provision of a caravan or other temporary accommodation on the site to allow time for such prospects to be clarified. It will normally be unsatisfactory to grant successive extensions to a temporary permission.

12. Policies 7 and 25 of the District Plan provide for new agricultural dwellings and for residential caravans, in terms which generally accord with PPG7, but insofar as they conflict, I consider that they have to some extent been overtaken by the more recent national policy advice. Policy 22 of the draft Local Plan sets out criteria for agricultural workers' dwellings; and policy 24 states that while residential caravans will normally be subject to the same policies as apply to residential buildings, there may be special circumstances when permission may be given for a temporary period, for example when the viability of a new agricultural unit needs to be tested.

13. I now draw together the history of the site, your client's intentions for the land, and the policy context, as summarised above. From the evidence given at the inquiry and in written representations, and from my inspection of the site and its surroundings, I consider that the main issue is whether there is sufficient agricultural justification for the retention of this mobile home to outweigh the harm to the open rural character of this site within the AONB.

14. I am satisfied, first of all, that if there is a need for a dwelling in support of this enterprise, it is reasonable for it to be located on or adjacent to the site. Your client would be the sole proprietor of the farm; and PPG7 states that a requirement for one or more workers to be readily available at most times might arise for example in case animals require essential care at short notice, to deal quickly with emergencies, and to provide security (although the latter would not be sufficient justification by itself). The County Council's land agent stated at the inquiry that if the poultry enterprise materialised in the form proposed, it would be essential for an agricultural worker to be available on or in close proximity to the site at most times. However the need to control development in the countryside means that before a permanent dwelling could be permitted, there must be clear evidence that the farm is capable of being sustained in the long term, and that it is intended so to sustain it. The Council gave examples where dwellings have been permitted and the farm has declined or ceased soon afterwards. It is particularly important in the AONB to prevent that situation arising if possible.

15. I consider that there is no conclusive evidence of a sustainable business being established by your client here. Until 1992 he was essentially continuing the enterprise developed by Mrs Ford, and only quite soon before the inquiry did he take positive steps on site to set up his poultry business. This may have been because he had no previous experience of the business and so had to obtain advice. As the Council point out, the mobile hen houses that he has obtained would not be an efficient way of establishing a business of sufficient scale, although I appreciate his reluctance to undertake large-scale investment with the appeal pending. Permanent agricultural buildings would in any event need planning permission on a holding of this size, and the absence of such permissions renders the future of the business more uncertain. PPG7 advises that financial evidence should normally be taken into account where the application for a dwelling relates to the intention to set up a completely new farm business. In this case your client had no business accounts or plan, and at present is only working part-time on the land while continuing his trade as a builder. I conclude that there can be no question at present of granting a permanent permission for the mobile home.

16. However if your client proceeds as planned with a free range poultry business here, and subject to his gaining the necessary planning permissions for buildings (as to the merits of which I express no view), then there is reason to believe that a sustainable farming enterprise could be established. The County Council's land agent stated his belief that your client had a genuine intent to establish free range egg production and that on the balance of probability some form of poultry enterprise will be run from the site; but he considered the gross margin stated by ADAS to be optimistic, particularly in the early years. The Council produced articles from the farming press pointing out the uncertainties and frequent failures of poultry enterprises. Your client would do well to be aware of these pitfalls, especially in view of his lack of previous experience. But it seems to me that these are just the sort of circumstances envisaged in PPG7 in which temporary accommodation might be permitted to give time for such prospects to be clarified.

17. A permission now would be the third successive one for this mobile home, and PPG7 advises that this would normally be unsatisfactory. However I consider that this is a genuine case of a new business being proposed by a new owner and that a further temporary period is justified in the circumstances. Looking to the longer term, if there should in the future be a case for a permanent dwelling here on agricultural grounds, then I believe this would be a reasonable location for it within the site, well related to the road frontage and to the other farm buildings. But I repeat that your client is a long way from making any such case at present, and a permanent dwelling would not be acceptable here otherwise.

18. The Council also criticise the design of the mobile home and in particular its colouring, as being inappropriate in this environmentally sensitive location. Perhaps there is scope for redecorating it in a less obtrusive manner. However I do not find this to be a compelling objection to its retention for a further limited period, bearing in mind that this was not considered to be an objection when the previous permissions were given. I express no view about the boundary fencing and wall as I understand that they are the subject of separate action by the Council.

19. Having regard to all the above points I conclude that in short your client should be given the benefit of the doubt. I have taken account of all the other matters raised, including the appeal decision submitted by the Council in respect of a site at Piccotts End. I consider that the circumstances and merits of that case were different; I also note that the decision pre-dated the more detailed advice about temporary accommodation for farm workers contained in the revised PPG7. I attach little weight to the fact that your client was unaware of the personal limitation when he purchased the home as I consider that this is a matter between him and his professional advisers. On the other hand I am encouraged in my conclusion by the support given to your client by local people, although that would not be conclusive in itself. No other matters outweigh my conclusion that permission ought

to be given for the retention of this mobile home for a further period. In my view 3 years ought to be long enough adequately to test your client's intention and ability to develop a sustainable agricultural enterprise.

20. Of the other conditions requested by the Council, I see no clear need to limit the permission to your client personally, having regard to the advice contained in Circular 1/85. Instead I shall limit the occupation of the mobile home to persons employed in agriculture, in the terms set out in Annex E to PPG7. I do not consider that a requirement for landscape treatment is justified for a temporary permission as there would not be time for new planting to mature before the permission expired. I have indicated that I regard the boundary fencing as a separate issue. On this basis your client's appeal succeeds on ground (a) and ground (g) does not fall to be considered.

FORMAL DECISION

21. For the above reasons and in exercise of the powers transferred to me, I hereby allow this appeal, direct that the enforcement notice be quashed, and grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act for the change of use of land at Hatches Croft, Bradden Lane, Gaddesden Row for the stationing of a mobile home, subject to the following conditions:

1. The use hereby permitted shall be discontinued and the mobile home shall be removed from the site on or before the expiration of 3 years from the date of this letter.

2. The occupation of the mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependents.

22. This decision does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

RIGHT OF APPEAL AGAINST DECISION

23. 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 Gentlemen
Your obedient Servant

Andrew S. Newman

A S NEWMAN BA MA DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr M D Carter ARICS FAAV

- Partner, Faulkners, Chartered Surveyors, 49 High Street, Kings Langley, Herts.

FOR THE PLANNING AUTHORITY

Miss N Pope

- Solicitor, Dacorum Borough Council.

She called:

Miss F Moloney BA DipUrbP MRTPI

- Planning Officer, Dacorum Borough Council.

Mr J E Hunt ARICS

- Land Agent, Hertfordshire County Council.

DOCUMENTS (INCLUDING PLANS)

1. List of persons present at the inquiry.
2. Letter of notification and list of addresses.
3. Extracts from Hertfordshire Structure Plan Review, approved June 1992.
4. Extracts from adopted Dacorum District Plan, 1984.
5. Extracts from Dacorum Borough Local Plan, deposit draft 1991, and Modifications put to Public Local Inquiry.
6. Copy of appeal decision letter reference T/APP/C/89/A1910/007/P6 submitted by the Council, with plan.
7. Schedule of conditions submitted by the Council.
8. ADAS reports, December 1991 and 22 October 1992, submitted by the appellant.
9. Report by Poultry and Smallholders Centre, submitted by the appellant.
10. Copies of grazing agreements submitted by the appellant.
11. Letters and petition of support submitted by the appellant.
12. Evidence of date of aerial photograph submitted by the appellant.
13. Copy of County Planning and Estate's Officer's comments on 1989 planning application.
14. Other documents and plans submitted by Mr Carter.
15. Other documents and plans submitted by Miss Moloney.
16. Documents submitted by Mr Hunt.

PHOTOGRAPHS

1. Aerial photograph submitted by the appellant.
2. Photographs of site prior to appellant's acquisition submitted by the appellant.



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Handwritten signatures and initials

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Civic Centre
HEMEL HEMPSTEAD
Herts
HP1 1HH

Your reference
4/0754/92EN
Our reference
APP/C/92/A1910/621023/P6
Date **22 DEC 92**

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY MR D A DONALDSON

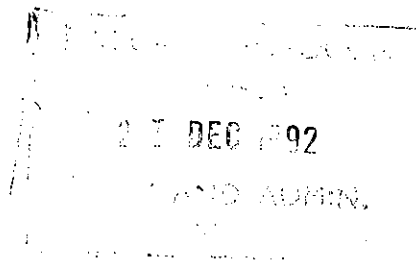
1. At the inquiry into the above-mentioned appeal held on 2 December 1992, an application for costs was made on behalf of Mr D A Donaldson.

2. I enclose my decision on this application.

I am Sir
Your obedient Servant

Handwritten signature: A S Newman

A S NEWMAN BA MA DipTP MRTPI
Inspector



PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						
Ref.					Ack.	
DoP	T.C.P.M.	D.P.	D.C.	B.C.	Admin.	File
Received					4 JAN 1993	
Comments						

