

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

DACORUM

THE DISTRICT COUNCIL OF

IN THE COUNTY OF HERTFORD

To Mr. J. Green,
The Nursery,
Long Lane,
BOVINGDON,
Herts.

Siting of mobile home

Land between Two Bays and Beggars Roost, Long Lane,
at Bovington.

Brief
description
and location
of proposed
development.

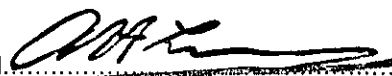
In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated 21st June, 1978, and received with sufficient particulars on 21st June, 1978, and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

The site is within an area without notation on the County Development Plan where green belt policies apply, i.e. not to permit development unless it is essential in connection with agricultural or other special purposes - no justification has been proven in this case to warrant a departure from this principle.

Dated 3rd day of August, 1978.

Signed



Designation Director of Technical Services.

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Whitehall, London, S.W.1.) The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.



Department of the Environment

Room 1411

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 914

Switchboard 0272-218811

Council reference T404/4/0794/78

Your reference PRF/JB/8322

Our reference T/APP/5252/C/78/4958/G4
T/APP/5252/A/79/01666/G4

Date

3 - AUG 1979

Messrs Faulkners
Chartered Surveyors
49 High Street
KINGS LANGLEY
Herts
WD4 9HU

TECHNICAL SERVICES DEPT.	
PLANNING SECTION	
- 7 AUG 1979	
FILE No.	DATE

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
APPEALS BY MR J R F GREEN
LAND BETWEEN TWO BAYS AND BEGGARS ROOST, LONG LANE, BOVINGDON

1. I refer to the 2 appeals, which I have been appointed to determine, against an enforcement notice served by the Dacorum District Council, and against a refusal of planning permission by that Council, concerning the above-mentioned land. I held an inquiry into the appeals on 4 July 1979.
2. a. The date of the notice is 2 November 1978.
- b. The breach of planning control alleged in the notice is the making of a material change in the use thereof to a use for the purpose of the stationing of a residential caravan (mobile home).
- c. The requirements of the notice are to discontinue the use of the said land for the purpose of the stationing of a residential caravan (mobile home).
- d. The period for compliance with the notice is 6 calendar months.
- e. The appeal was made on ground 88(1)(a).
3. The development for which planning permission was refused is retention of a mobile home on the said land.
4. In summary the appeals are being dismissed, the notice is being upheld and planning permission is not being granted.
5. This roughly square, mostly grass covered site of about one acre has a frontage of about 220 ft on the west side of Long Lane. A road access in the southern half of the frontage, with swinging gates formed from a pair of former "up and over" garage doors, leads on to a hardened internal road. The grey mobile home is to the south of this road, not far inside the site, and reached by a concrete block path. At the junction of the path and road is an old lamp standard. Between the mobile home and a tall hedge is a prefabricated grey coloured outside lavatory. The hedge to the north of the access is tall but sparse, enabling the site to be seen from the road.
6. At the northern end of the internal road is a substantial barn, in one end of which were 6 pens, in which were 8 young calves said to be of various ages between one and six weeks. A few hens were loose in the vicinity, and some bales of hay were also stored in the barn. In a separate part of the barn to the north were a

Ford tractor and a small Fiat mechanical shovel. A large part of the area north of the internal road showed signs of cultivation, though nothing appeared to be growing on it. In the soil there was an appreciable amount of broken glass.

7. A large area of land to the north-west of the site was overgrown with long grass, nettles and alder bushes. Adjoining the site to the north is a bungalow, Two Bays, and there are 3 other dwellings to the north of varying age. Beyond them is the now disused mess building of the former Royal Air Force station at Bovington. North of that are what appear to be a group of former RAF married quarters. South of the site are 2 mature dwellings, a considerable gap, 2 more dwellings, another gap, and 2 more dwellings beyond which is vacant land to the crossroads further south. On the east side of the road dwellings of various ages extend fairly regularly from the north end of Long Lane to just south of the appeal site. South of that is a large gap and then further intermittent dwellings. The lane has grass verges with hedges and trees on either side, which gives it a rural appearance.

8. For your client it was said that he bought the land in January 1978 as a place to keep ponies and chickens. He had no thought of living there, but, later, altered family circumstances made it necessary for him and his wife and daughter to move out of his parents' house at Garston. The mobile home was moved on to the site in June 1978 and they began to live there. He had at the time no idea that planning permission was needed. The site was untidy and overgrown when he bought it and it took him about 6 months to clear it, remove all the rubbish from it and fence it, working part-time. Later he built the barn, to rear calves in it, to store the necessary hay, and for a tractor. It was not claimed that the holding could be viable in the sense that it could provide a living for a man and his family on its own. Your client needed to supplement his income with other work. If he had to leave the site he and his family had nowhere to go - the waiting list for a council house was very long. He also had nowhere else where the mobile home could be put.

9. Turning to the question of planning merit, the arguments applied equally to both appeals. Although this was land to which the planning authority applied Green Belt policies it was in fact "white land", so it was not unreasonable that Green Belt policies should be applied rather less rigidly and rigorously than in approved Green Belt. Moreover this development did not conflict with the objectives of Green Belt policy outlined at paragraph 3.4.1 of the County Council's Policy Statement Hertfordshire 1981. There was no question of the merging of 2 settlements since the site was already within an area of residential development, and for the same reason there was no adverse effect on the rural character of the locality. The recreational and enjoyment value of the lane was also unaffected for much the same reason. Though not as intensively developed as it would be in a town, both sides of the road from Bovington Green to the north had been developed over the years, dwellings being unevenly spaced. There was no incursion into virgin country in this case. Indeed the development fulfilled the infilling criteria at paragraph 3.4.8 of Hertfordshire 1981. The plot was a gap in an otherwise built up frontage, and it was on the same frontage as existing development. It was generally in proportion with other development in the vicinity. Since it had been cleared and improved it could hardly be said to be out of character with the surroundings. The site had also at one time been developed since there had been a greenhouse on it, though nothing but the broken glass was left when your client bought the site. Your client had generally good relations with his neighbours, and a review of the various letters received indicated little of substance.

10. Although there had been previous appeals, one being on the site itself, there was nothing definitive about them. Indeed the site of one of them, further south in the lane, was in a part where the lane was open on both sides. It remained necessary to consider the character of the lane in the vicinity of the site, and it was residential. The council's suggestion that the site could be joined to the larger area of land

adjoining to the north-west, as part of a larger agricultural unit, was not valid since that area was waste land rather than farmed land.

11. For the planning authority it was said that there was no dispute over the facts. The policies applied in this case were well known. Although the site was outside the approved Green Belt, in an area of "white land", this was an area where Green Belt policies were applied. It was moreover within an area designated Green Belt in the Structure Plan submitted to the Secretary of State which would soon be approved.

12. Although there was a ribbon of development in Long Lane, it was nevertheless in a rural area, and this view was confirmed in the March 1977 appeal decision on this same site (T/APP/5252/A/76/8137/G5), and in 2 other decisions on nearby land in Long Lane. In the present case the question of agricultural need had to be judged on the basis of the relevant Circulars; obviously it did not stand up to such scrutiny. The land was not a viable unit by those standards. The only ground of appeal which needed to be considered was the claim that this development was infilling. But the fourth criterion of Hertfordshire 1981, already referred to by the appellant, was that development of a site as infilling should not detract from the character of the village and surrounding area. In the present case this development did detract from the rural character of the area. Moreover both the previous decisions on this site, and another decision on land between Dunaber and Sunnymede not far south on the same side of the road (T/APP/5252/A/76/7072/G8 of 16 February 1977) specifically rejected the suggestion that either development would amount to infilling. Development in Long Lane was of the ribbon type dating from before the introduction of planning control, and had been consistently resisted since then. It was important that resistance should continue, and it would be seriously undermined if these appeals were to be allowed.

13. From the foregoing arguments and from my inspection of the site and surroundings I conclude that this is a rural area in which there is also a certain amount of ribbon development straggling southwards from the junction of Long Lane and Water Lane. This development and the site itself are not in Bovington, nor is it closely related to Bovington Green. The lane itself is largely rural in appearance, despite the intermittent housing down both sides, and does not have the appearance of a built up frontage. I doubt whether the term infilling could be properly applied to a mobile home, but even if a house or bungalow were the subject of these appeals I do not think it could be described as infilling on this particular site, in a lane of this character. On the contrary, a dwelling, whether mobile as in the present case or not, would merely add to and intensify the ribbon of houses already in this lane, and would help to deprive it of the rural character which it has so far managed to retain. I reach this conclusion on practical rather than policy grounds, although I note also that the site lies within an area to which Green Belt policy applies interim, pending a decision on the Green Belt proposals as a whole. I see no reason to question its application in the meantime. Since it was conceded that the site was unlikely by itself to become a viable agricultural unit there can be no question of agricultural need, and both appeals must fail on planning merit.

14. Although neither grounds (f) nor (g) were raised I have considered whether the requirements of the notice exceed what is necessary to remedy the breach of control, and whether enough time has been allowed to comply with them. I see no reason to vary either. I have also considered all the other matters raised in the representations made but can see no reason to reach any other decision.

FORMAL DECISION

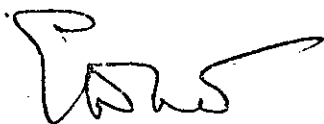
15. In exercise of the powers transferred to me and for the reasons given above I hereby dismiss both appeals, uphold the enforcement notice and refuse to grant

planning permission on the application deemed to have been made under Section 88(7) of the Act of 1971.

RIGHT OF APPEAL

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

I am Gentlemen
Your obedient Servant



~~E-B CREW~~ CB DSO DFC MA FRAeS
Inspector

ENC

(a)

DACORUM DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971.

Enforcement Notice

*(Change of use without permission)

To: (b) Mrs. H. E. Peters
of Iona, North Orbital Road,
Garston, Watford, Herts.

*Also served on
Mr J R F Green
The Nursery
Long Lane*

1. WHEREAS:

(i) You are the ~~owner and occupier~~ of ~~a person having an interest in~~ the land situate at and known as (c) "The Nursery", Long Lane, Bovington, Herts. (located between properties known as "Two Bays" and "Beggars Roost", Long Lane, Bovington)

which is more particularly delineated on the attached plan and thereon ~~coloured~~ edged in red (hereinafter called "the said land").

(ii) The (a) Dacorum District Council (hereinafter called "the Council") are the Local Planning Authority (*inter alia*) for the purposes of the provisions of section 87 of the Town and Country Planning Act 1971 (hereinafter called "the Act of 1971").

(iii) It appears to the Council that after the 31st day of December 1963 there has been a breach of planning control in that the said land has been developed by the making of a material change in the use ~~thereof~~ ~~of the buildings situate thereon~~ to a use for the purpose of the stationing of a residential caravan (mobile home)

without the grant of permission required in that behalf under Part III of the Town and Country Planning Act ~~1962 or Part III of the Act of~~ 1971.

(iv) The Council consider it expedient having regard to the provisions of the development plan and to all other material considerations to serve this notice.

[CONTINUED OVERLEAF

(a) Insert the name of the council serving the notice.

(b) Insert the name of the person, company or other body on whom the notice is being served. In the case of a company, service should be on the company, not on individual directors or officers. In the case of a partnership, service should be on each of the partners by name. Service on (i) an occupier or (ii) a person having an interest in the land whose name cannot be ascertained after reasonable inquiry can be made in the manner provided by sub-section (2) of section 283 of the Town and Country Planning Act 1971. There is also provision in sub-section (3) of that section for service of notices in respect of occupied land.

(c) Insert a full description of the land to which the notice relates, sufficient to enable its location and extent to be readily understood. Where there is a postal address for the land, this should be included. The land should also be shown on a plan attached to the notice, where possible. In drafting an enforcement notice regard should be had to *the whole of the planning unit* in respect of which it is alleged there has been a breach of planning control, not merely to that part of the land which is directly affected by the activities, or failure, constituting the alleged breach.

YOUR ATTENTION IS DIRECTED TO THE ATTACHED NOTES WHICH EXPLAIN YOUR RIGHT OF APPEAL AGAINST THIS NOTICE. YOU SHOULD READ THEM CAREFULLY.

2. NOW THEREFORE TAKE NOTICE that in exercise of the powers contained in the said section 87 of the Act of 1971 the Council HEREBY REQUIRE YOU within the period of six calendar months beginning with the date on which this notice takes effect to discontinue the use of the said land ~~of the buildings situate on the said land~~ for the purpose of the stationing of a residential caravan (mobile home)

~~and to restore the said land [and the buildings situated thereon] to [its] [their] condition before the said development took place.~~

3. THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88(3) of the Town and Country Planning Act 1971, ~~at the end of the period of~~ ~~days beginning~~ on the ~~with~~ (d) 13th December 1978

DATED this Second day of November, 1978.

Signed Keith Hunt as (e)

District Secretary
(The officer appointed for this purpose)

Civic Centre,
Marlowes,
Hemel Hempstead,
Herts.

Address to which all communications should be sent.)

(d) The period specified must be such that not less than 28 clear days elapse between the date of the service of the notice and the effective date (a longer period may be specified). Where several persons are served, ensure that the effective date is not less than 28 clear days after the latest date of service. (The period of 28 clear days cannot begin to run until the day following the day when service of the notice on all those persons entitled to be served has been completed.)

(e) Insert title of proper officer.

NOTES FOR PERSONS SERVED WITH AN ENFORCEMENT NOTICE

(These notes do not form any part of the enforcement notice)

PENALTIES FOR NON-COMPLIANCE

1. You have been served with an enforcement notice which will come into effect at the expiry of the period stated in paragraph 3 of the notice. You then have the further period set out in paragraph 2 of the notice in which to comply with the requirements set out. If you fail to comply within that time you will be liable to prosecution and, on conviction, to a fine. The continuing contravention after conviction can lead to a further fine for each day the offence continues.

RIGHT OF APPEAL

2. You have a right of appeal against the notice to [the Secretary of State for the Environment] ~~[the Secretary of State for Wales]~~. If you do appeal, the notice will not come into effect until the appeal is finally determined.

WHEN TO APPEAL

3. An appeal *must* be made within the period at the end of which the notice is stated to take effect. This is the period set out in paragraph 3 of the notice. *The Secretary of State has no power to extend this period nor to accept an appeal made out of time.*

HOW TO APPEAL

4. There are no special forms on which to make an appeal, but it should be made in writing and addressed to [the Secretary of State, Department of the Environment, Becket House, 1 Lambeth Palace Road, London, SE1 7EP] ~~[the Secretary of State, Welsh Office, Summit House, Windsor Place, Cardiff CF1 3BY]~~ and the envelope marked "Enforcement Appeal". You should state (a) the grounds on which the appeal is made, and (b) the facts on which those grounds are based. (It will help the Secretary of State in dealing with the preliminary stages of the appeal (see paragraph 7 below) if you enclose a copy of the enforcement notice or, failing that, state the name of the Council serving the notice, and the address of the property or location of the land enforced against. If you have also made, or are making, an appeal against a refusal of planning permission in respect of the same land, you should mention this as well.)

* Tollgate House, Houlton Street, Bristol.