



The Planning Inspectorate

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Your Ref: -

Council Ref: 4/0901/96EN

Our Ref:
APP/C/96/A1910/643619

RECEIVED	
20 MAY 1997	
Date: 19 MAY 1997	
Cautley	

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR MICHAEL LUTT
LAND AT THE OLD FORGE, SHANTOCK HALL LANE, BOVINGDON

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 Dacorum Borough Council concerning the above mentioned land. I held an inquiry into the appeal on 1 May 1997. The evidence was taken on oath.

THE NOTICE

2. (1) The notice was issued on 17 June 1996.
- (2) The breach of planning control as alleged in the notice is: without planning permission, the erection of buildings.
- (3) The requirements of the notice are: (i) dismantle the buildings and remove all building materials from the site; (ii) level and reseed the site to pasture.
- (4) The period for compliance with these requirements is 3 months.

GROUND OFS OF APPEAL

3. Your client's appeal is proceeding on the grounds (a) & (f) set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991.

BACKGROUND TO THE NOTICE

4. The land covered by the notice is a large field, lying just outside the village of Bovington. In 1993, planning permission was granted by the Council for the erection of farrier's premises and stables on part of the land. Construction commenced, and is now well-advanced. However, what has been built differs materially from the approved plans, and this has resulted in the service of this enforcement notice (which was accompanied by a stop notice).

APPEAL ON GROUND (a)

5. The Development Plan for the purposes of section 54A of the 1990 Act comprises the Hertfordshire County Structure Plan, Alterations 1991, approved in 1992, and the Dacorum Borough Local Plan, adopted in 1995. An alterations package to the Local Plan is being prepared, which includes guidance on the Bovington Airfield site, of which the appeal site forms a part. That package has not yet been through inquiry stage, and that limits the weight that can be attached to its contents. However, in the adopted Local Plan, the site lies within the Green Belt, and the Council does not envisage that there will be any change in respect of this site.

6. Location within the Green Belt imposes very special restrictions on new development. Policy 1 of the Structure Plan states that permission will not be given, except in very special circumstances, for development for purposes other than that required for '*various defined uses*' or other uses appropriate to a rural area'. Policy 3 of the Local Plan states that there is a presumption against building development, and that one of the few categories of uses which are acceptable is 'other open uses appropriate to a rural area'. The policy goes on to say that 'very small scale building which is necessary to sustain an acceptable use will be permitted provided it has no adverse impact on the character, function and appearance of the Green Belt'. The Council has also cited policy 47 of the Structure Plan and policy 8 of the Local Plan: these are general development control policies. Those policies are material considerations, but, to my mind, they are not as compelling in this case as the Green Belt policies.

7. Against that background, and having regard to all the evidence before me, I consider that the main issue to be considered in deciding whether permission should be granted is whether these buildings, in the form in which they have been built, comply with Green Belt policies.

8. The Council felt that the originally approved proposal complied with these policies. I would not seek to disagree with the Council that a farrier's workshop and stables is an appropriate use in a rural area, nor would I argue with the Council's view that the buildings shown on the plans that were approved were as small-scale as could be reasonably expected. However, the buildings which have been constructed are very different to those approved.

9. For convenience, these differences can be divided into (i) changes to the roofs of the buildings, and (ii) other alterations to the buildings. I start with the latter. Much was made by the Council of the changes to the fenestration of the building and its internal details. Having heard the evidence of your client and the intended tenant, Mr Foskett, I am prepared to accept that they may have had difficulty, just from looking at a plan, in envisaging the space that will actually be available in the building, and that it was only when the shell of the

building was going up that they could see that the accommodation could be improved for the intended use as a farrier's workshop. That does not excuse Mr Lutt's failure to discuss the matter with the Council's planning officers, particularly bearing in mind the history of planning applications, including an appeal, on this site. Nevertheless, the internal changes have not affected the appearance of the building except in the sense that they may have caused changes to the window and door openings, and these external changes, whilst certainly materially different to the approved plan, have not resulted in a building of any greater height or bulk. Therefore, I do not consider that these changes are objectionable in terms of the relevant Green Belt policies.

10. The changes to the roofs of the buildings are, however, a very different matter. The approved buildings were acceptable because the pitched roof to be provided was shallow in profile, and the roof to the larger, workshop, building had hipped ends. The resulting building would have been appropriately small-scale, and therefore in accord with policy 3 of the Local Plan.

11. As now built, however, the roof to the stable has been increased in height by about 1.00m, and that to the main building by some 1.55m. In addition, the latter has been built with gable ends instead of hipped ends. The result has been not only appreciably higher buildings, but buildings of substantially more mass. The insertion of a window in the gable end of the stables, in full view of the road, further emphasizes the fact that the building is higher than approved. To my mind, the Council is justified in saying that these buildings are no longer 'very small-scale', as required by policy 3 of the Local Plan.

12. I appreciate that the surroundings to this site are not entirely open in character, and that there is some development nearby, notably the poultry farm to the north. But this locality does still have a generally attractive rural character, and there is no reason for applying Green Belt policies any less strictly. The buildings as now constructed are much more prominent than would have been the case if the approved plan had been followed, and this has had an adverse impact on the character and appearance of this part of the Green Belt. I appreciate that your client claims that these alterations were made to enable a fuller use to be made of the roof area, but this fuller use seems to me to be a matter of convenience for Mr Foskett, rather than being necessary to sustain a farrier's use of this building. Location within the Green Belt imposes severe restrictions on development, and my conclusion is that the building as erected here is unacceptable in terms of Green Belt policy. Planning permission ought not to be granted, and therefore your client's appeal on ground (a) fails.

13. There is one further matter to be dealt with. It is clearly a concern of the Council that the alterations that have been carried out to the approved plan have resulted in buildings that may be more amenable to conversion into dwellings. I understand that concern, but that is a matter of supposition as to what applications might be submitted in the future. In view on my decision not to grant permission for this building, I see no need to pursue this aspect.

THE APPEAL ON GROUND (f)

14. It is a requirement of the notice that the buildings be removed in their entirety. I have concluded that the alterations to the approved plans in respect of the internal features, and the position and extent of wall openings, are not objectionable in planning policy terms, and that it is the alterations to the roof which are unacceptable. Nevertheless, taking the buildings as an entity, they are not the buildings that were approved. Whilst restoration of the roofs to

their approved form would, in my view, result in a building of acceptable appearance, the buildings so reconstructed would not be the buildings to which the permission applied, since the other alterations which have been made are certainly material alterations to the approved plan. The buildings would not be subject to the original permission, and the conditions which were imposed on that permission could not be applied. Therefore, it seems to me that, in upholding the notice, the only way in which the breach of planning control can be remedied is to require the removal of the whole building. Accordingly, your client's appeal on ground (f) fails.

OTHER MATTERS

15. I have taken into account all other matters raised in this appeal, including the 1982 permission, now expired, for an abattoir on the site, but find that none outweighs the considerations which have led to my conclusions.

FORMAL DECISION

16. For the above reasons, and in exercise of the powers transferred to me, I dismiss your client's appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the amended Act.

RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully



C F TREWICK ARICS
Inspector

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