



The Planning Inspectorate

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PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL							
Ref.					Ack.		
D.P.	T.O.P.	C.P.	D.C.	B.C.	Admin.	File	
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Comments							

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Date:
28 JAN 93

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY R GURNEY ESQ.
LAND AT SPRING FARM, NETTLEDEN ROAD, NETTLEDEN

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 land. I have considered the written representations made by you and by the Council and also those made by the Nettleden with Potten End Parish Council, by the Nettleden, Frithesden and District Society and by interested persons. I inspected the site on 22 December 1992.

2. a. The notice was issued on 12 June 1992;

b. The breach of planning control alleged in the notice is the erection of a building and the change of use of agricultural land and buildings to use for the repair and respraying of motor vehicles;

c. The requirements of the notice are:-

i. Cease the use of the land and buildings for motor vehicle repairs and respraying;

ii. Remove all motor vehicles, vehicle parts and equipment used for vehicle repairs and respraying from the land;

iii. Dismantle and remove the building [identified on the plan attached to the notice] from the land;

d. The period for compliance with the notice is 3 months.

3. Your client's appeal is proceeding on the grounds as set out at Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, that is to say:

(a) that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted;

(g) that any period specified in the notice in accordance with Section 173(9) falls short of what should reasonably be allowed.



THE SITE

4. The appeal site is in the countryside about 5km to the north-west of the centre of Hemel Hempstead. It lies within the Metropolitan Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB). The land, which is subdivided into paddock areas, rises gently upwards in a southerly direction away from Nettleden Road towards a public bridleway which runs alongside the site's southern boundary. Close to the site's northern boundary is a range of buildings which run parallel to the road. The easternmost of these buildings, which stands about 3m above the level of Nettleden Road, is constructed in metal sheeting above a blockwork base. It has a double set of doors which open onto a yard on its north side. At the time of my site inspection, both the building and a similar structure immediately adjoining it to the west were being used for the storage of hay and straw bales.

THE NOTICE

5. You submit that the enforcement notice is a nullity in that it fails to clearly identify the premises to which it is intended to refer. While you state that the appeal has been drafted in the belief that the notice applies to part only of the range of buildings on the land, you say that this is not clear on the face of the notice. The nature and extent of the building and whether or not it forms part of the overall range cannot be determined by reference to the notice or the plan. The plan attached to the notice does not indicate all the buildings; only a freehand outline purports to identify the building.

6. In response, for the Council, it is stated that the site and the building are adequately identified and there appears to be no doubt as to which building is the subject of the notice.

7. To my mind, the notice is not defective on its face. I am unable therefore to concur with your view that it is a nullity. It seems to me that your criticism is aimed more at the content of the notice, in which case its validity is called into question.

8. The boundaries of the land to which the notice is directed appear to me to be defined with a reasonable degree of precision on the plan attached to the notice. I am also mindful that you have not challenged the planning unit identified by the Council. However, while the building to which part of the notice is addressed is shown by a coloured notation on the plan, I do agree that there is an element of imprecision as regards its position, particularly as none of the other buildings on the land are shown. Indeed, you may recall that at the site inspection I had some difficulty initially in identifying exactly which building the notice related to. Furthermore, whereas the measurement taken on site showed the building to be located about 30m from the site's eastern boundary, by scaling it off from the plan the distance is only about 10m.

9. There is little doubt in my mind that the position of the building shown on the enforcement notice plan is inaccurate and I accept that this imparts a degree of uncertainty into the notice. Be that as it may, from what is before me, I am not satisfied that the notice is fatally defective. In particular, the apparent aberration which is evident has not prevented you from putting forward your client's case. Taking all these factors into account, my conclusion is that the notice is not invalid but it does need to be amended so that the position of the disputed building is made clearer. The requisite corrections and variation to the notice are within my power to make and would not in my view cause injustice to either party.

10. A further matter, which has not been commented upon by either party, is that the notice alleges a material change of use to the repair and respraying of motor vehicles only. Setting aside the question of whether respraying has occurred for the moment,

from what is before me, I consider the allegation should refer to a mixed use of the land, including the keeping of horses for recreational purposes as well. In my view, this additional correction would not cause injustice either.

Appeal on Ground (a) the Deemed Application

11. I acknowledge that your client's version of the extent of the activities carried out at the site is somewhat at odds with the Council's evidence, particularly insofar as the paint spraying of vehicles is concerned. However, as no appeal has been made on any of the legal grounds, I do not propose to make a determination on that point. Instead, in coming to my decision, I shall assess both the merits of the disputed use on the land and those relating to the particular building in question, bearing in mind the purpose for which you say it is required.

12. The relevant planning policies for the area are contained in the Hertfordshire Structure Plan, approved in 1992, the Dacorum District Plan, adopted in 1984, and the emerging Dacorum Borough Local Plan, which I have read had been the subject of a local inquiry. According to these plans, strict controls upon development in the Green Belt and in the AONB apply. To my mind, the policies set out in the plans are consistent with national policy guidance. In particular I am mindful that in Planning Policy Guidance Note 2, 'Green Belts', it is stated that there is a general presumption against inappropriate development within Green Belts. In addition, Planning Policy Guidance Note 7, 'The Countryside and the Rural Economy', advises that the primary objective of the AONB designation is the conservation of the natural beauty of the landscape.

13. As regards the use of land and/or buildings for the repair of motor vehicles and activities related thereto, this is not one of the categories of land use acknowledged as being appropriate in the Green Belt. Nor in my view is it a form of land use which is appropriate to a rural area. Accordingly, from my inspection of the site and its surroundings and my consideration of the representations made, my opinion is that the prime issue in this case is whether there are any very special circumstances which outweigh the general presumption against inappropriate development in the Green Belt.

14. Apart from the denial that your client has carried out paint spraying on the site, I am unable to identify anything else in your submissions which lends support to this element of the appeal on ground (a). In my opinion, activities associated with the disputed use within what I found to be a quiet and pleasant stretch of countryside would be harmful to the rural character of the area. My conclusions are that this development would be contrary to the provisions of the development plan and there are no very special circumstances which outweigh the general presumption against inappropriate development here.

15. Turning to the building in question, I consider that the storage of hay, straw and other items associated with the keeping of horses on the land can reasonably be regarded as a use appropriate to a rural area. To my mind, the main issue in this component of your client's appeal is the effect of the building upon the AONB.

16. As I perceived it, the quality of the local landscape is of a very high order and the planning policies which seek to protect this important attribute are fully justified. I accept that the structure in question forms part of a range of buildings and has been painted to blend in with them. However, I am unable to concur with your view that it does not make a significant impact upon the surrounding area and is entirely suitable here.

17. While the disputed building seemed to be well maintained, to my mind, it has a somewhat stark and utilitarian appearance nonetheless. In my judgement, the building is scarcely compatible with the sensitive nature of the attractive countryside within which it is located, nor are the materials it is built of in keeping with those traditional to the character of the area. I accept that the building is seen in

association with similar structures, but you acknowledge that they are of fairly basic construction. Accordingly, I do not consider their presence is a good reason for permitting further development of this type in a sensitive location as I think this is.

18. The building in question can be seen clearly from the bridleway on the higher ground to the south and would also be visible for a good part of the year from Nettleden Road when the roadside hedge is bereft of foliage. Its impact from the latter viewpoint tends to be exacerbated by its elevated position above the road. In my estimation the development in dispute represents a substantial addition to the group of buildings on the land which has resulted in a serious loss of openness here. I accept that keeping bales outside under a tarpaulin would have a certain impact upon the area, but I think the effect would be much less than that of a permanent building. In my view this development is contrary to the provisions of the development plan. My conclusion is that the building is a harmful intrusion into the landscape and the effect of its retention upon the AONB would detract from, rather than conserve, the beauty of the area.

19. In light of the foregoing, the appeal on ground (a) fails and I refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act.

Appeal on Ground (g)

20. I accept that upholding the notice will cause some inconvenience for your client but in my view the period for compliance is a reasonable period to allow him to make any necessary alternative arrangements. Accordingly, the appeal on ground (g) fails.

21. I have taken into account all the other matters raised, including the expressions of support for your client. None however, are sufficient to outweigh the considerations which have led me to my conclusions.

FORMAL DECISION

22. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the notice:

- i. be corrected by the substitution of Plan marked DHB 1 for that attached to the notice;
- ii. be corrected in Schedule 2 by the deletion of all the words after "edged" and the substitution therefor by the words "black on Plan DHB 1";
- iii. be corrected in Schedule 3 by the deletion of all the words after "building" and the substitution therefor by the words "being the easternmost of the range of buildings on the land, the approximate location of which is indicated by the hatched area shown on Plan DHB 1 and the change of use of land and buildings to a mixed use of the keeping of horses and the repair and respraying of motor vehicles;
- iv. be varied in Schedule 5 (iii) by the deletion of the words "edged green" and the substitution therefor by the words "hatched black".

Subject thereto, I dismiss your client's appeal, uphold the notice 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

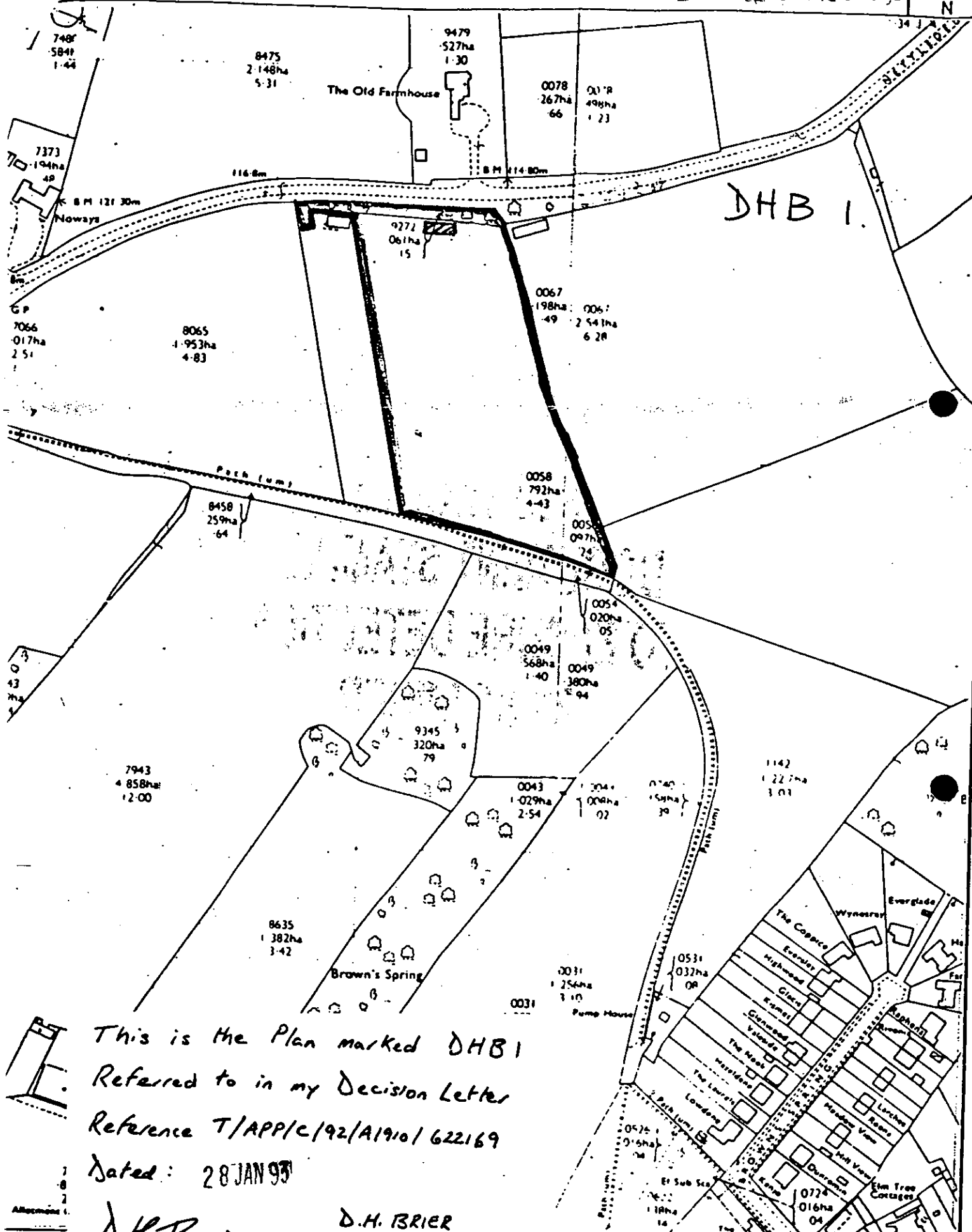
23. This letter is issued as the determination of the appeal before me. Particulars of the right of appeal against the decision to the High Court are enclosed for those concerned.

I am Gentlemen
Your obedient Servant

D. H. Brier

D H BRIER BA MA MRTPI
Inspector

**NORTHGATE
DOCUMENT STAMPED
TO ENSURE DETECTION
BY SCANNER**



PLAN

D.H. BRIER
INSPECTOR

ED 12th June 1992

PLANNING FILE REF. : E/92/68
SCALE : 1:2500

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