



The Planning Inspectorate

D/118X/JM/P

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PLANNING DEPARTMENT									
Dacorum Borough Council									
Your Ref: RP/CAS/308									
Our Ref: TF/APP/C/92/A1910/622684/P6									
Council Ref: 4/1097/92									
Date: 13 JAN 93									
Received 15 JAN 1993									

Derek Kent
Great Wheeler's Barn
The Green
SARRATT
Hertfordshire
WD3 6BJ

T.C.P.M.	D.P.	D.C.	B.C.	Admin.
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Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR R J NOTT
LAND AND BUILDINGS ADJACENT TO CATS CRADLE, HOLLY HEDGES LANE,
BOVINGDON, HERTFORDSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against an enforcement notice issued by Dacorum Borough Council concerning the above land and buildings. I have considered the written representations made by you and the Council and also those made by interested persons including Bovington Parish Council. I inspected the site on 7 December 1992.

THE NOTICE

2. a. The notice is dated 10 July 1992.
- b. The breach of planning control as alleged in the notice is change of use of land from residential to use of land for the business of preparation and organisation of safaris by Land Rover including the mechanical preparation of vehicles, the sale of vehicles and parts and the accommodation and briefing of safari participants.
- c. The requirements of the notice are:
- Remove all motor vehicles, vehicle parts and equipment used for vehicle maintenance from the site;
 - Stop using the site for the storage, sale, maintenance and preparation of motor vehicles and for the organisation of safaris.

d. The period for compliance with these requirements is one year.

GROUND'S OF APPEAL

3. Your client's appeal is proceeding on grounds (a) and (f) of Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, that is to say 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 (ground a) and that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach (ground f).

THE APPEAL SITE

4. The appeal site consists of a drive and a rectangular area of land on which there are 2 buildings on the north side of Holly Hedges Lane immediately to the east of a pair of houses known as Cats Cradle and Hollow Hedge. The site is within an area of countryside with woods to the east and south.

5. A gate leads from the lane to the drive and a gravelled area which appears to be used for private parking (related to Cats Cradle) to the south of the more southerly building. A second gate gives access to the main part of the site, the buildings and the area used for parking the Land Rovers.

6. Building 1 (the northerly building) comprises a servicing workshop area with small office and a separate joinery workshop. One section of building 2 contains a lecture room, a large kitchen, a room with 2 bunk beds and 2 WCs. There is also a workshop and an area for motor spares (with a reception counter). At the time of my visit there were 8 Land Rovers parked on land between the 2 buildings.

7. I understand from the representations that there were formerly 2 small garages on the site; these were renovated and extended to form building 2. Building 1 was constructed shortly after 1980.

8. Hollow Hedge was extended and converted to form 2 dwellings in about 1977. Cats Cradle is occupied by your client and Hollow Hedge by his relations. Hollow Hedge has its own separate access from the lane. Cats Cradle appears to share the vehicular access which forms part of the appeal site. There is a pedestrian gate in the wall, which leads from the driveway area into the garden of Cats Cradle.

15. I understand that the company, a small firm, has been operating on the site for the last 17 years without complaint. The appeal site adjoins your client's home and the house and business appear to share the drive. The business is described by you as small and informal, almost an extension of Mr Nott's home. Certainly the numbers of people visiting the site in connection with the safari services business would not seem to be much more than the number of guests who might visit the family in any event.

16. In considering this case I attach considerable weight to both the relatively low key nature of the safari business and the fact that the site adjoins your client's home. The buildings and parking area are screened and set well back from the road. Taking into account also the long time period during which the business has operated here, I consider that it would be appropriate in this case to grant a personal permission for the continued operation of the safari services use.

17. I turn next to the other businesses at the appeal site. Your client provides a Land Rover parts service and also sells second hand Land Rovers. I regard these as separate businesses from the safari services business and not ancillary to it. Although you say that the scale of these activities is small and that casual calls do not take place, it seems to me likely that these businesses would result in considerably more activity and callers to the site than the safari services. I regard these as inappropriately located businesses at the appeal site.

18. Not only is this a Green Belt site but it is in the heart of the countryside and served by narrow country lanes. I realise that these activities are linked to and add to your client's safari business. Nevertheless, I find that the circumstances in relation to these business activities do not outweigh the material harm caused by the introduction of people and traffic to the site to find parts and to look at second-hand vehicles.

19. I have considered all the other matters raised but I have found nothing to alter my conclusions on the main issue. The appeal on ground (a) succeeds in relation to the safari services operation but fails in relation to the sale of vehicles and parts.

20. The Council have suggested a number of conditions. I have already indicated that I propose to dismiss the appeal in relation to the sale of vehicles at the site. I do not therefore consider that it is necessary to restrict the number of vehicles stored at the site. As to any residential use of the buildings, this appears to me to be minimal and ancillary to the safari services operation and at this scale I do not consider that such prohibition is necessary.

9. In the representations and at the site visit it was pointed out that the buildings are not in the exact position shown on the enforcement notice plan, being a little further to the south, there being a tennis court on the northern edge of the appeal site. Whilst taking note of this, I am satisfied that it is not necessary for me to correct the plan attached to the notice.

APPEAL ON GROUND (a)

10. From my view of the site and its surroundings and having read the representations, I consider that the principal issue in this case is whether there are any special circumstances which would warrant these uses in the Green Belt.

11. The Council argue that the use of the land and buildings for commercial purposes is inappropriate within the Green Belt and results in increased traffic and general activity in this quiet rural area. They point to policies for the protection of the Green Belt in the Hertfordshire County Structure Plan and the adopted Decorum District Plan. They say that this particular use is inappropriate by definition as it has no functional link with the countryside or activities carried out there.

12. It appears to me that there are several uses taking place at the appeal site and covered by the enforcement notice. First, there is the safari services business which includes the mechanical preparation of vehicles and the briefing of safari participants with their occasional accommodation prior to safaris. There is also a separate business or businesses namely the sale of vehicles and the sale of parts for these vehicles.

13. The uses taking place at the appeal site are not within the list of uses appropriate to a rural area (that is, those uses outlined as being appropriate in a Green Belt in paragraph 13 of Planning Policy Guidance Note 2). Nor are they confined to the buildings (the parking takes place outside the buildings).

14. I turn therefore to consider whether there are any special circumstances here. The safari services business, if not exactly either tourism or recreational use, may be regarded as analogous with such uses. People come and vehicles are brought to the site in preparation for a safari holiday. These holidays take place overseas, mainly, I understand, in Africa. The safaris involve gathering together about 6-8 people with 4-6 Land Rovers setting off in convoy, some 2-3 times a year for journeys taking several months to complete and which your client personally leads. Participants often stay at a local hotel or guest house but there are facilities available for overnight stops if required. I agree with you that this is a highly specialised and unusual land use.

APPEAL ON GROUND (f)

21. You say that the removal of all motor vehicles from the site is unreasonable. You argue that the only practical use for the buildings is the garaging of motor vehicles and some maintenance even for domestic pleasure or necessity is the minimum that might reasonably be permitted. Furthermore, you say the local planning authority did not discuss the alleged breach of control with your client and the notice therefore requires the total cessation of the present uses.

22. I shall vary the notice in accordance with my decision to allow the appeal in respect of the organisation of safaris. Insofar as there is an appeal on ground (f) in relation to the sale of motor vehicles and parts, I consider that the cessation of these uses is necessary. However, since vehicle maintenance is part of the work of safari services I shall delete the first step of the enforcement notice. I shall also reword step 2 to make clearer the distinctions between the uses. The enforcement notice as varied would not prevent your client from continuing to use the gravelled area to the west of the drive for private parking in connection with his residential occupation of Cats Cradle.

23. The appeal on ground (f) succeeds only to the extent which I have indicated above.

FORMAL DECISION

24. For the above reasons, and in exercise of the powers transferred to me, I hereby:

- i. vary the notice by the deletion of step 1;
- ii. by the deletion of step 2 and the substitution therefor of the following: "Stop using the site for the sale of motor vehicles and motor vehicle parts and for the storage, maintenance and preparation of motor vehicles except in connection with the organisation of safaris."

Subject thereto, I hereby allow the appeal in part insofar as it relates to the use of the land for the business of preparation and organisation of safaris by Land Rover including the mechanical preparation of vehicles and the accommodation and briefing of safari participants and grant a personal planning permission for the development already carried out, namely for this use at land adjacent to Cats Cradle, Holly Hedges Lane, Bovington, Hertfordshire subject to the following conditions:

- i. the use hereby permitted shall be carried out only be Mr R J Nott;

ii. when the premises cease to be occupied by Mr R J Nott the use hereby permitted shall cease and all materials and equipment brought onto the premises in connection with the use shall be removed.

Insofar as the enforcement notice relates to the sale of vehicles and parts, I hereby dismiss the appeal and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act.

25. This letter 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

26. 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

Caroline Briggs

CAROLINE BRIGGS BA FRTPI Barrister
Inspector

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**APPEAL TO THE HIGH COURT AGAINST
AN INSPECTOR'S DECISION ON AN ENFORCEMENT
NOTICE APPEAL OR ASSOCIATED PLANNING APPEAL**

An Inspector's decision on an enforcement appeal is final, unless it is successfully challenged in the High Court. Neither the Inspector nor the Secretary of State can amend or interpret the decision. It may only be reviewed if it is remitted to the Secretary of State, by the Court, for re-determination or re-consideration.

Anyone thinking of challenging an Inspector's decision is strongly advised first to seek legal advice. The following notes are intended as general guidance only.

An appeal may be made to the High Court under either or both sections 288 and 289 of the Town and Country Planning Act 1990. Different time-limits, which are explained below, apply to each type of appeal.

a) Appeals under section 288 of the 1990 Act

Section 288 provides that a person who is aggrieved by any decision to grant planning permission on the deemed application in an enforcement notice appeal, or by the decision on an associated appeal under section 78 of the Act, may question the validity of that decision by an application to the High Court on the grounds that:-

1. the decision is not within the powers of the Act;
OR
2. any of the "relevant requirements" has not been complied with.

A challenge on either of these grounds must be made within six weeks of the date of the accompanying decision letter. "Leave" of the High Court is not required for this type of appeal.

The "relevant requirements" are defined in section 288 of the 1990 Act and are the requirements of:

- a) the Town and Country Planning Act 1990
- b) the Tribunals and Inquiries Act 1971 (or any other enactment replaced thereby), and

the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include:

- i) the Town and Country Planning (Inquiries Procedure) Rules 1988 (SI. 1988 No. 944);
- ii) the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987 (SI. 1987 No 701);
- iii) the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992 (SI. 1992 No 1903); and
- iv) the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991 (SI. 1991 No 2804, as amended by SI 1992 No 1904).

Copies of these may be obtained from HMSO Bookshops.

b) Appeals under section 289 of the 1990 Act

Section 289 provides that the appellant, the local planning authority, or any other person having an interest in the land to which the enforcement notice relates, may appeal to the High Court "on a point of law" against the Inspector's determination of an enforcement notice appeal.

An appeal under section 289 may only proceed with the leave of the Court. An application for leave to appeal must be made to the Court within 28 days of the date of the Inspector's decision, (unless the period is extended by the Court).

The appeal procedure involves the submission of what is called a "Notice of Motion" to the Crown Office in the Royal Courts of Justice. You are strongly recommended to consult a qualified legal adviser about this procedure and its estimated cost to you.

INSPECTION OF INQUIRY DOCUMENTS

Any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State, in writing within 6 weeks of notification, for an opportunity to inspect any documents, photographs or plans appended to the decision. These will be listed at the end of the Inspector's decision letter. Your application should be sent to Room 1404, Collgate House, Houlton Street, Bristol, BS2 9DJ, quoting the Inspectorate's appeal reference number and stating the date and time (in normal office hours) when you would wish to make the inspection. Please give at least 3 days' notice and include a daytime phone number, if possible.

Parties have a right to inspect the documents under the provisions of rule 17(3) of the Town and Country Planning (Inquiries Procedure) Rules 1988, and rule 20(3) of the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992.

PLANNING INSPECTORATE AGENCY
Department of the Environment

August 1992