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31 MAY 1988

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PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

APP	ENV	PL	HC	AG	FIN	GEN	REL

Received

1 JUN 1988

Comments

Your reference

MJR/A542/07/J

Our reference

T/APP/A1910/A/88/83615/P4

Date

26 MAY 88

Cde. 1/10/87

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MISS O M VAN ROSSUM
APPLICATION NO:- 4/1308/87

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeal against the decision of Dacorum Borough Council to refuse planning permission to retain The Bungalow at Feveralls Farm, Roe End Lane, Markyate, without complying with condition No 2 attached to a planning permission dated 7 July 1964, when consent for The Bungalow was granted under Hertfordshire County Council Ref W/1105/64 and the former Hemel Hempstead Rural District Council Ref 5406. I have considered the written representations made by you and the Council, together with the forwarded representations on the application made by the Markyate Parish Council; I inspected the site externally and the surrounding area on 11 April 1988.

2. The condition in contention requires that "The occupation of the dwelling hereby permitted shall be limited to persons employed, or last employed locally in agriculture, as defined in Section 221(1) of the Town and Country Planning Act 1962, or in forestry, and the dependants of such persons". The Bungalow lies in an exposed position in open undulating countryside; there can be no doubt that the location is one where, in accordance with both local and national planning policy, consent for a dwelling would ordinarily be refused. Accordingly I find no reason to question the condition's appropriateness when first imposed, nor have you sought to do so. From the representations and from my inspection, I consider therefore that the appeal hinges on whether or not circumstances continue to justify the condition.

3. In 1964 Feveralls Farm was a 46.5 ha (115 acre) dairy farm. However I understand that more recently it was not allocated a milk quota, and in 1982 it was bought by your client and incorporated into her much larger holding. The main farm dwelling has been sold off and most of the former dairy farm buildings demolished. Feveralls Farm as a separate agricultural holding has therefore ceased to exist. There is no suggestion that the dwelling is now directly necessary to the appropriate running of your client's farm holding. When your client bought Feveralls Farm, The Bungalow was subject to a life tenancy by the previous owner's mother. She died in December 1985, and the dwelling has been empty since then.

4. Paragraph 14 of the annex to DoE Circular 24/73 makes clear that when an agricultural occupancy condition has appropriately been imposed, the condition will not normally be removed unless it can be shown that the long term needs for dwellings for agricultural workers, both on the particular farm and in the locality, no



RECYCLED PAPER

longer warrant retention of the condition for that purpose. Paragraph 9 to DoE Circular 16/87 acknowledges that changes in the scale and character of agriculture in response to market changes may well affect the requirement for dwellings for occupation by agricultural or forestry workers. The Circular advises that such dwellings should not be kept vacant by virtue of planning conditions, restricting occupancy, which have outlived their usefulness, that applications for the removal of such conditions should be considered on the basis of realistic assessment of the continuing need for them, and that there is no virtue in keeping dwellings unoccupied if they are no longer needed for their original purpose.

5. Circular 16/87 is part of a wider Government response to the changes brought about by agricultural surpluses. To my mind the advice in paragraph 9 is recognition that the circumstances needed to justify removal of an agricultural occupancy condition outlined in the 1973 annex are now more frequently likely to be met, rather than any indication that the required circumstances should themselves be relaxed.

6. In this regard, the marketing of The Bungalow carried out by Connells plc, Estate Agents, and the approach made direct to local farmers are both open to some criticism. There is no reason to question the extensive and extended coverage of the marketing strategy, but in the submitted copy advertisement at any rate negative features to a prospective purchaser seem to me somewhat emphasized. The enquiry to local farmers was whether they "have a need to use an additional farm worker and if so, whether the bungalow would be suitable for the purpose". This approach did not therefore invite response either with regard to retiring local farm workers or the dependants of local farm workers. Agricultural dwellings, even if no longer needed directly to serve a holding, can make a valuable contribution towards housing a local agricultural community. Even with these reservations, however, on unchallenged evidence the overall result was "no significant response by potential purchasers".

7. Furthermore the Council's evidence of a continuing need for the condition seems to me also open to criticism. In 1983 planning permission was granted for an agricultural worker's dwelling in the locality, at Roe End Farm, and more recently again in the locality at Beechwood Home Farm. However on unchallenged evidence both those dwellings were for workers necessarily located on those particular farms. No evidence is adduced of any more general need for accommodation for agricultural workers, or retired agricultural workers or their dependants, in the locality, for example by reference to applications for local authority housing. Indeed on Connell plc's evidence, the 1981 census revealed only 21 people as employed in agriculture in the Parish of Markyate and Flamstead.

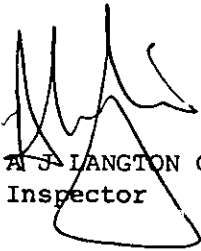
8. Agricultural occupancy conditions should not lightly be discharged. To do so would cumulatively do grave damage to the widely acknowledged important interest inherent in protecting the countryside from the impact of unwarranted dwellings. However, on a balance of the evidence submitted, I have concluded that the condition on this particular dwelling can no longer be held to be necessary. In their representations on the application, the Parish Council argue that if the dwelling has outlived its agricultural purpose it should be demolished. Desirable as that might be as a planning objective, it is neither a realistic expectation nor would it be in the broader public interest to waste the asset of this dwelling. Having taken all the other matters raised into account, I have concluded that your client's appeal succeeds.

9. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the occupation of The Bungalow at Faveralls Farm, Roe End Lane, Markyate, without compliance with condition No 2 imposed on the planning consent of 7 July 1964 under Hertfordshire County Council Ref W/1105/64, and the former Hemel Hempstead Rural District Council Ref 5406, in

accordance with the terms of the application (No 4/1308/87) dated 12 August 1987 and the plans submitted therewith.

10. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant

A handwritten signature in black ink, appearing to be 'A. J. Langton', written over a large, hand-drawn triangle.

A. J. LANGTON CEng DipTP MICE MRTPI MIHT
Inspector