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PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

Ref.

Act 0

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File

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CHIEF EXECUTIVE

OFFICE

31 AUG 1983

File Ref.

Date

Your reference

PRF/JLB/2/8320

Our reference

T/APP/5252/C/82/3325/PE2

Date

and T/APP/5252/A/83/3788/PE2

30 AUG 1983

Messrs Faulkners
49 High Street
KINGS LANGLEY
Hertfordshire
WD4 9HU

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY MR A W MILLS
LAND AND BUILDINGS AT ROSE FARM, WATER LANE, BOVINGDON

1. I refer to the 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 and buildings. I held an inquiry into the appeals on 12 July 1983.
2.
 - a. The date of the notice is 22 October 1982.
 - b. The breach of planning control alleged in the notice is the unauthorised making of a material change in the use of the buildings situate on the land to a use for the purpose of kennelling, breeding and training of greyhounds.
 - c. The requirements of the notice are to discontinue the use of the buildings situate on the land for the purpose of kennelling, breeding and training of greyhounds and to restore the land and the buildings situate thereon to their condition before the development took place.
 - d. The period for compliance with the notice is 6 months.
 - e. The appeal was made on ground 88(2)(a).
3. The development for which planning permission was refused is renewal of planning permission for siting of a caravan.
4. The evidence was not taken on oath.
5. The site is some 15 acres in area. Entered from Water Lane, it contains a caravan and an open-sided farm building close to the south of the access, a brick-built farm building close to the north of the access, and a concrete-framed farm building to the west of the access. In the brick-built building are 9 dog pens, of which 5 are disused. In a lean-to building adjoining the concrete-framed building are 16 dog pens and a food preparation room. Outside the buildings are 5 wire-enclosed dog runs. The rest of the site comprises 2 grass fields. On the day of the inquiry 3 greyhounds were kennelled in the pens, and 30 heifers were being kept on the site. To the north-west of the site's access are 2 dwellings, and across the road to the site's north-east are several further dwellings.

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6. The evidence is that your client purchased the site in 1971. He erected the concrete-framed building in about 1976. On 18 October 1977 planning permission was granted on appeal for the stationing of a caravan on the site, subject to an agricultural occupancy condition and a condition limiting the life of the permission to 5 years. The caravan has not been removed, and is residentially occupied. Your client has used the buildings on the site partly for agricultural purposes and partly for the purpose of kennelling, breeding and training of greyhounds.

7. It appears that at the time of issue of the enforcement notice the buildings on the site had a dual use for the purposes set out in the preceding paragraph. I consider that the change of use alleged in the notice should be to that mixed use, and that the notice is capable of correction. I propose to correct it accordingly.

8. From the representations and my inspection of the site and surroundings I am of the opinion that the main issue in both appeals is whether exceptions should be made to the council's policy for the control of development in the area.

9. The site is in an area subject to Green Belt policy, being shown on the deposited Local Plan as within the Metropolitan Green Belt, extended in consequence of the approved Structure Plan. I see no reason to doubt that Green Belt policy is being appropriately applied.

10. Whilst of the view that the keeping and breeding of greyhounds may be appropriate and acceptable in a rural area, I am conscious both of the amount of kennel accommodation available or potentially available for use on the site, as described in paragraph 5 above, and of the proximity of the nearby dwellings. It seems to me unlikely that the 3 bitches at present on the site would cause much noise nuisance to nearby residents, a view supported by a number of such residents' representations, particularly the letter from the owner and occupier of a property immediately next to the site. Nevertheless, your client states that 22 dogs have been kept on the site in the past, and it appears to me that the facilities are such that the number, including litters of puppies, could be in excess of that figure in the future.

11. Letters from some of the nearby residents and the parish council indicate that dogs on the site have caused noise nuisance in the past, and I am in no doubt that, if they were kept there in substantial numbers in future, they would give rise to a level of noise which would be detrimental to the peace and quiet reasonably to be expected in this Green Belt area, and to the peaceful enjoyment by nearby residents of their homes. Your client, whose honesty as a witness you have stressed and I readily acknowledge, concedes that he would keep more than 3 greyhounds on the site if the breeding rate could be increased. There is no suggestion that the numbers would be limited to 3 or any other number from which the volume and frequency of noise could be expected to be of little or no significance.

12. Although well understanding your client's wish to pursue his hobby here, I have reached the conclusion that this is the wrong place to keep and breed greyhounds to the extent made possible by the facilities on the site.

13. You have pointed to the policy provision that planning permission may be granted for development in the Green Belt where it can be shown that the development is requisite for or ancillary to agriculture or for small scale facilities for participatory sport. I have carefully considered whether the recreational nature of your client's activity can justify the keeping and breeding of greyhounds on the site, but have decided that it cannot be regarded as an overriding factor. I see no means likely to be acceptable to your client of eliminating the objection or ensuring its permanent reduction to a reasonable level, and the appeal against the notice on ground (a) therefore fails.

14. With regard to the continued stationing of the caravan, planning permission is sought for a further period of a year. Bearing in mind the aims and provisions of Green Belt policy, I believe that, in the absence of an overriding reason in justification, this is an inappropriate location for stationing a residential caravan, by reason of injury to the rural scene resulting from the caravan's appearance and harm to the peaceful character of the countryside resulting from the residential use.

15. You claim justification for the continued stationing of the caravan on grounds of security, and your client states that the premises have been broken into on 3 occasions. In the light of my conclusion set out in paragraph 13 above, the matter of providing protection for the greyhounds is not of relevance. As to the agricultural activity, it is not claimed that the caravan is occupied by a person solely or mainly employed in the locality in agriculture, or that the site at present constitutes a viable agricultural holding. But you say that the holding is potentially viable, and in the meantime a caravan is needed to protect the premises and preserve them for the future. I find myself unconvinced by your argument. I note that, although it is stated that the premises have been broken into in the past, no harm to farm animals or agricultural items has apparently resulted. The buildings are not isolated, being close to several dwellings, particularly Rose Farm House, and the presence of the dwellings must provide some deterrent to trespass on the site. I am not satisfied that an overriding need exists for the caravan to remain on the site. The Section 36 appeal therefore fails.

16. I have taken into account all other matters raised in connection with both appeals, and the relevant advice in Circular 22/80, but there is nothing to outweigh the considerations which have led me to my decision on each appeal.

17. The requirements of the enforcement notice call for amendment to take account of the correction referred to in paragraph 7 above. I do not find the first part of them excessive. The second part requires the restoration of the land and buildings to their condition before the development took place. Building operations are not alleged in the notice, and it appears to me sufficient to require discontinuance of the use. Furthermore, I do not consider that the notice clearly tells your client what he has to do to restore the land and buildings to their former condition. I therefore propose to delete the second part of the requirements.

18. The period for compliance with the notice seems to me to be reasonable.

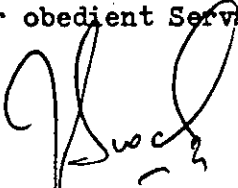
FORMAL DECISION

19. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the enforcement notice be varied 1. by deleting in paragraph 1(iii) the words 'use for the purpose of kennelling, breeding and training of greyhounds' and substituting therefor the words 'mixed use for agricultural purposes and for the purpose of kennelling, breeding and training of greyhounds', and 2. by deleting in paragraph 2 all the words after 'to discontinue' in the third line of that paragraph and substituting therefor the words 'the mixed use of the buildings situate on the said land by ceasing the use for the purpose of kennelling, breeding and training of greyhounds'. Subject to these variations, I dismiss the appeal against the notice, uphold the notice, and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the 1971 Act (as amended by the Act of 1981). I also dismiss the appeal under Section 36 of the Act.

RIGHT OF APPEAL

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

I am Gentlemen
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'J Brock', written over the typed name.

J BROCK MA (Cantab)
Inspector

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