

D/78/LN/P



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Council refs 4/1522/83E 4/1523/83E

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P.O.	D.P.	D.C.	B.C.	Admin.	File
Received				7 AUG 1984	
0272-218 938					
0272-218 811					

Mrs J Laws  
212 Beechwood Road  
LUTON  
Beds  
LU4 9SA

Your reference

Our reference

T/APP/5252/C/83/3350-51/P6

Date

- 6 AUG 1984

Madam

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
LAND AND BUILDINGS AT BIRCHIN GROVE FARM, PEPPERSTOCK

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. The appeals are against 2 enforcement notices issued by the Dacorum District Council concerning the above-mentioned land and buildings. I held an inquiry into the appeals on 22 May 1984. I have considered all the representations made by you and by the Council and I inspected the site on 22 May 1984.

## NOTICE A

2. a. The date of the notice is 19 September 1983.

b. The breach of planning control alleged in the notice is:

1. the change of use of the area of land shown coloured yellow on the attached plan from agricultural use to use for the stationing of a caravan for residential purposes;
2. the change of use of the area shown coloured hatched green on the attached plan from agricultural use to use for the tipping of rubble and waste materials.

c. The requirements of the notice are:

- i. the discontinuance of the use for residential purposes of the caravan shown coloured yellow on the attached plan;
- ii. the discontinuance of the use for the tipping of rubble and waste materials and the restoration to its condition before the development took place of the area of land shown coloured hatched green on the attached plan and the removal therefrom of the said rubble and waste materials.

d. The period for compliance with the notice is 6 months.

e. The appeal was made on grounds 26(2)(a) and (c).

1522/  
23.

## NOTICE B

- a. The date of the notice is 19 September 1983.
  - b. The breach of planning control in the notice is:
    1. the construction of an incomplete timber framed structure, shown coloured brown on the attached plan;
    2. the construction of an all-weather paddock and exercise area, shown coloured hatched blue on the attached plan.
  - c. The requirements of the notice are:
    - i. the demolition of the incomplete timber framed structure shown coloured brown on the attached plan and the restoration of the land on which it has been constructed to its condition before the development took place;
    - ii. the removal of the all-weather exercise and paddock area, shown coloured hatched blue on the attached plan, and the restoration of the land on which it has been constructed to its former agricultural use.
  - d. The period for compliance with the notice is 6 months.
  - e. The appeal was made on grounds 88(2)(a).
3. The evidence was not taken on oath.

## SUMMARY OF DECISION

4. The appeals are allowed, and both notices are being quashed.

## THE SITES AND THEIR SURROUNDINGS

5. The sites are in open countryside about 2½ miles from Luton at an agricultural holding of about 10½ ha, three-quarters pasture and the rest woodland. Access is from Half Moon Lane, a cul-de-sac running south-west from the nearby settlement of Pepperstock; the lane becomes an unmetalled track just before reaching the site, and the nearest development to the holding consists of dwellings scattered along the lane. The present enterprise consists mainly of rearing pigs and keeping ponies for private use. The latter were running in paddocks on the open land and the pigs were kept in enclosures in the woodland on the north side of the holding.

6. The caravan (Notice A) is close to the northern boundary near the access and contains a bedroom, kitchen and living room. Also near the access on open land and south of the caravan are several piles of rubble, bricks and hardcore (Notice A), and further south in the south-west corner of the holding is a dwelling with breeze block walls partially completed to wall plate level. On the southern open part of the holding east of the caravan is a range of brick buildings used as loose boxes for animals, offices and pig sties. Opposite these, and on the south side of a track running east from the access and then north to a large hay barn in the woodland are an unclad timber framed structure (Notice B) on a concrete base, and a large steel Nissen type building with

concrete floor, divided into stalls, to be used for calf-rearing. Immediately south of this building is a touring caravan, and then the exercise area (Notice B). This is a rectangular piece of land covered with shingles about 20 m by 60 m and, surrounded by boarding. The whole is fenced around by post and rail fencing. The final top covering has not yet been applied to the shingle.

#### CASE FOR THE APPELLANT

7. Although the appeals against the 2 notices have not been withdrawn, you have had discussions with the Council and reached substantial agreement on the points at issue.

8. You appealed originally against Notice A because the caravan was needed for someone to live on the site for security reasons. A public footpath runs through your holding and with the amount of livestock kept it is inevitable that thefts will occur unless someone is present all the time. The piles of material near the access to which Notice A also refers were not tipped on the site as waste materials but came from the foundation excavations of the dwelling under construction in the south-west corner of the site. As this is on the site of a former brickworks the mounds give the appearance of builders' waste from a building site. You have also brought onto the site hardcore to form a drive to the dwelling and to surface the track from the access to your agricultural building in the woodland, but have been unable to spread it because of lack of money. The track is shown on plan E.

9. As regards Notice B, the timber framed structure is intended as an essentially agricultural building (Plan B) for the purposes of a feed store, general purpose kitchen, toilet facilities and a small farm office. These are to replace the present arrangements next to the pig sties which are completely unsatisfactory. The all-weather menage or exercise ground for horses has not been completed and lacks its top surface. Some £5,000 has been spent and a further £4,000 will probably be needed. It is very necessary for the welfare of the animals.

10. Your pig breeding business has suffered because of the general set back in the industry and you are currently considering a different farming policy. At present you have 2 boars, 20 sows and 20 gilts and about 150 piglets, but only 3 cows. There are about 10 horses or ponies; these are not used for recreational purposes other than by yourself for exercise, but you may seek permission from the Council to start riding lessons at some future date. You have had a helper living in the caravan until very recently, and wish to continue using it residentially. You hope to complete the timber framed building within 3 months if it is "permitted development" under the General Development Order and to complete the surfacing of the track to the barn if the same applies to that operation. You also expect to finish the dwelling at the south-west corner of the holding by the end of December 1985, under a permission granted by the Council in 1980, for a temporary dwelling, and the drive leading to it.

11. At present large vehicles carrying agricultural foodstuffs call at the site not more than twice a week, and vehicles bringing or collecting livestock about once a month at slack times, and perhaps once a week at busier times.

12. The agreements reached between yourself and the Council in regard to the 4 breaches of control referred to in the notice, are as set out in paragraphs 13-18. In each case, as a result of the discussions, a course of action which is acceptable both to the Council and to yourself has been suggested, in the light of the powers available under Section 88B of the Act.

13. An appeal against the Council's refusal to permit a permanent dwelling on the site was dismissed on 10 February 1981 on the ground that there was insufficient agricultural justification, but in November 1980 they granted permission for a "temporary" dwelling, to give you an opportunity to establish the viability of your farming enterprise. The notices do not refer to the building. That permission expires on 31 December 1985, but the dwelling has not so far been completed, and in view of the Council's acceptance of temporary residential accommodation on the site, it is suggested by both parties that it would be appropriate to grant permission for the retention of the residential caravan up to 31 December 1985, subject to an agricultural occupancy condition.

14. You agree with the Council that the existing mounds of rubble on the site are unsightly. The purpose of the rubble is to provide a hard surfaced track for the agricultural buildings (Plan E) and a driveway to the temporary dwelling. It will also be necessary to bring additional material on to the site to complete the proposed areas of hard surfacing. Since the Council do not object to a proper hard surfaced track or to a driveway for the dwelling, it is suggested that it would be appropriate to grant planning permission for the retention of the existing material subject to conditions that it be spread and levelled to form a hard surfaced access within 6 months and any additional material required to complete the construction of the access shall be spread and levelled within a period of 2 months of it being brought on to the site.

15. If the laying down of the section of hard track which serves the farm buildings exclusively is permitted development under Class VI Schedule 1 of the General Development Order, the suggested planning permission need relate only to so much of the track as serves the temporary dwelling.

16. The plans of the incomplete timber framed building which you have now submitted (Plan B), show that it is designed to provide a farm office, animal feed store, general use room and toilets. On this basis the Council accept that it is to be used for agricultural purposes, or for purposes ancillary thereto, and therefore its erection is development falling within Class VI of Schedule 1 of the General Development Order, for which express planning permission is not required.

17. You own 8 of the 10 horses at present grazing at the site, and 2 belong to friends. The ground at Birchin Grove Farm is not ideal for riding horses, particularly for any length of time, and the all-weather surface can be used for exercising the horses all through the year. You have a particular interest in horses and intend to use the all-weather exercise area only for private leisure purposes. Although there has been a previous planning application for establishment of a riding school at Birchin Grove Farm which was refused, neither of you intend to proceed further with this. If however you and your husband wish to begin a small business activity in the future, giving riding lessons or providing livery facilities, you accept that there would have to be a further application for planning permission. You agree with the Council that this would have to be determined in the light of Structure Plan and District Plan policies and all other material considerations.

18. You and the Council therefore suggest that it would be appropriate to grant planning permission for the retention of the all-weather exercise area and any works necessary for its completion, subject to a condition that it be used solely for private leisure purposes and not in connection with any business.

CASE FOR THE PLANNING AUTHORITY

19. The Council confirm that they have reached agreement with you and your husband on the points already mentioned. They do not wish to mention any other considerations but only to confirm that in November 1980 they permitted in outline a temporary dwelling at the appeal site for 5 years in order to give time for you to show that the holding could be run as a viable proposition. Their intention was that it would be a temporary movable structure. The details were approved in May 1981, but further approval was given in December 1981 for blockwork walls instead of those originally proposed. The application for change of use of land and buildings for a riding school, was refused in April 1983, and the Enforcement Notices issued shortly thereafter. The large Nissen type building near the exercise area erected within the last 4 years was not granted planning permission but was presumably permitted development under Class VI of the General Development Order.

20. The Council have no objection to the use of the present access to serve the development mentioned in the notices but contrary to you and your husband agree that if the 'temporary' dwelling (which contains 4 bedrooms) is completed before the caravan ceases to be used for residential accommodation on 31 December 1985, that use shall cease on whatever earlier date the dwelling is occupied.

CONCLUSIONS

21. I note and appreciate the substantial agreement between the parties, in the light of which, bearing in mind the courses of action they suggest, I conclude as follows.

22. As regards Notice A, since for the reasons given the Council now have no planning objection to the retention of the residential caravan for a limited period, to afford an opportunity for your enterprise to become established, I agree that a conditional planning permission should be granted, and this part of the appeal therefore succeeds on ground (a). I agree with the Council that only one residential use should be permitted at a time for this purpose.

23. You did not formally at the inquiry withdraw ground (c) under which you appealed against the second allegation in the notice, and in view of the unchallenged information given to me about the purpose for which the rubble and waste material was deposited, it seems to me that the breach of control, in the terms alleged in the notice, has not taken place, since the tipping of piles of rubble and hardcore, was for a particular purpose and not a use of the land in itself. The appeal therefore succeeds on ground (c) and as a result it will not be possible for me to consider any deemed application in respect of the tipping of waste material. As both parties have pointed out, the surfacing of the track which is to serve the farm buildings will not in any case require planning permission by reason of Class VI of Schedule 1 of the General Development Order, since it is requisite for the use of the land for the purposes of agriculture.

24. As regards Notice B, I accept that the building referred to in the first allegation is suitably designed for agricultural purposes, and is also requisite for the use of the land for the purpose of agriculture. Its erection is therefore development which does not require specific planning permission under Class VI of the Order, and is not in breach of planning control as alleged in the notice, although not pleaded by your husband, I propose to allow the appeal against this allegation on ground (b). Since the Council have no objection to the all-weather exercise area provided it is for your own private use, and since in my opinion it does not detract from the visual amenities, I agree that it may be completed and retained subject to a condition that it shall be used only for private leisure

purposes, and the appeal against the notice therefore succeeds on ground (a), in this respect. I have taken into account all the other matters raised in the representations, but they are not such as to affect my decision.

#### FORMAL DECISION

25. For the above reasons, and in exercise of the powers transferred to me, I hereby direct as follows:

##### Notice A

I allow your appeal, quash the notice and grant planning permission for the stationing of a caravan for residential purposes on the land subject to the following condition:

"The use hereby permitted shall cease on or before 31 December 1985 or on whatever date the dwelling at present under construction at Birchin Grove Farm shall be residentially occupied, whichever shall first occur".

##### Notice B

I allow your appeal, quash the notice and grant planning permission for the retention of the all-weather exercise and paddock area at Birchin Grove Farm and for any works necessary for its completion, subject to the following condition:

"The development hereby permitted shall be solely for private leisure purposes and shall not be used in connection with any trade or business".

#### RIGHT OF APPEAL

26. This letter is issued as the determination of the appeals before me. Particulars of the Rights of Appeal against the decision are enclosed for those concerned.

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

I am Madam  
Your obedient Servant



A H T CLAYTON MA(Oxon)  
Inspector

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