



The Planning Inspectorate

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Your Reference:

RJK/CAJ/3193P/11

Council Reference:

4/1540/93EN

Our Reference:

T/APP/C/93/A1910/6310.63

Date: 21 APR 1994

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR KEMPSTER
LAND AND BUILDINGS AT STARTOP FARM, STARTOP'S END,
LOWER ICKNIELD WAY, MARSWORTH, TRING

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 land and buildings. I have considered your written representations and those by the Council. I have also taken account of the letters from Robert B Jones Esq MP, the National Farmer's Union, and other interested persons. I inspected the site and its surroundings on 14 March 1994.

THE NOTICE

2. (1) The notice was issued on 4 October 1993.

(2) The alleged breach of planning control is:-

Without planning permission, change of use of a building marked A on the plan attached to the notice from agricultural use to use for vehicle body repairs paint spraying and general vehicle repairs.

(3) The requirements of the notice are:-

(i) Remove the spray booth, all vehicles, vehicle parts and equipment and machinery used for vehicle repairs and respraying from the land.

(ii) Cease using the building and land for motor vehicle repairs and paint spraying of vehicles.

(4) The period for compliance is one year.



GROUNDS OF APPEAL

3. Your client's appeal is proceeding on grounds (a) and (g) as set out in Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991. That is to say, respectively, that planning permission ought to be granted for the change of use that has occurred, and the period for compliance falls short of what should be reasonably allowed.

APPEAL ON GROUND (a)

4. First of all I noted at my site visit that the spray booth and associated extraction equipment had been removed, and the roof of the building had been made good. Nonetheless, the deemed application includes these elements of the development. I shall also consider the application in the light of your indication that the building is used for car repairs, and there is nothing to suggest the repair of HGV vehicles.

5. Moving on to the planning policies for the area the site is located outside the green belt and beyond the boundaries of the Chiltern Hills AONB. The Hertfordshire County Structure Plan Review encourages the provision of accommodation for small firms, and seeks to conserve and enhance the open countryside.

6. Policy 2 of the Dacorum District Plan (1984) explains that planning permission will not be granted, except in very special circumstances, for development unless it is a use appropriate to a rural area. In particular the change of use of existing buildings to industry will normally only be granted in areas allocated for industrial development. This document has been superseded for development control purposes by the Deposit Draft of the Dacorum Borough Local Plan and therefore carries little weight.

7. The emerging Local Plan does not anticipate industrial uses within the countryside. It makes provision in Policy 99, as proposed to be modified, for the re-use of redundant buildings where, inter alia, the building is substantial and worthy of retention and the new use is appropriate. Buildings worthy of retention are defined as those which are not detrimental to the landscape and amenity and character of the surrounding area. Considerations to determine appropriate new uses include:- whether the use is acceptably located (in accordance with other policies in the plan); and the impact on neighbouring uses.

8. There is nothing before me to indicate outstanding objections to Policy 99, as proposed to be modified. As the modification responds to the recommendations made by the Inspector following a public inquiry, and takes account of national guidance on the re-use of rural buildings in PPG7, this policy merits appreciable weight.

9. Against this background I consider that the main issue for me to decide is the impact of the development on the aims of countryside protection policies, having regard to the appearance of the building, and the effect of the use on its surroundings and neighbouring uses.

10. Startop Farm is located within an area of attractive countryside, on the north-western side of Lower Icknield Way. Its substantial group of buildings lies to the south-west of a line of houses, which are clearly separated, by the Grand Union Canal and open land, from the hillside village of Marsworth.

11. The appeal building is a simple portal framed structure, enclosed with blockwork and sheeting, with a lean-to on its south-western side. It has been maintained to a reasonable standard and there is every indication that its lifespan is far from limited. In my opinion, although the workshop is of utilitarian appearance, its materials have mellowed with age and its bulk and height blend with the setting of other functional farm sheds. In views from surrounding roads, and the public footpaths to the north and west, it appears as an integral part of the group despite its slightly detached position at the furthest point away from Lower Icknield Way.

12. The combination of the above factors demonstrate to me, that the building is not so unsightly, isolated or prominent in the open countryside that its retention would harm the landscape.

13. Turning to the use of the building there is no doubt that car repairs would not normally be permitted in the countryside. However, the use takes place within a building, adjacent to an area where other vehicles and farm equipment are parked. There is also a considerable measure of outside storage associated with the working farm. As there is little outward sign of the car repair business its activities appear to have been absorbed within these predominantly agrarian surroundings. I am therefore content that there is no perceptible impact on the rural scene.

14. Looking next at the neighbouring farm bungalow, the dwelling has a measure of separation from the passage of vehicles to the workshop. In addition none of its main living room windows face the driveway. Given the general level of vehicular movements likely to take place within an operational farmyard, and the opportunity to restrict the hours of use for the workshop, I consider that the living conditions of the neighbour would not be jeopardised.

15. I have given careful thought to the Council's concern that approval in this case could lead to the change of use of other farm buildings at the site, and threaten the regeneration of urban land. Whilst this has been firmly in my mind, it would remain a matter of judgement for the Council to decide the merits of re-use and the impact that cumulative change could have on the distinctive rural setting that currently prevails.

16. The Council have drawn support from 3 appeal decisions relating to the conversion of farm buildings. All of the sites are in the green belt, where Policy 99 applies a stricter test in assessing whether buildings are worthy of retention and requires buildings to make a positive contribution to the landscape. Therefore, I find the value of comparison to be severely limited.

17. Drawing together my findings on the main issue, having considered the appearance of the building, and the effect of its use on its surroundings and neighbouring uses, I have reached the conclusion that the development would not undermine the aims of countryside protection policies. In the absence of any legitimate objections, I consider that the advantages of re-use justify an exception to the Council's policies.

18. Turning to the conditions suggested by the Council, I believe that a limitation on the number of employees to the current level would be less onerous than a personal permission, as a means to limiting future intensification of the use. It is also important that the visual impact of activities outside the building should be controlled, and I shall devise a more precise form of words to embody the Council's aims.

19. Additionally, as other activities within Class B2 could have significantly greater impact on the locality, arising from traffic or noise for example, a specific restriction on the use can be justified. I shall also restrict the use to the repair of non HGV vehicles, for similar reasons and to correspond with the basis on which I have considered the application. The hours of operation suggested by the Council appear to strike a reasonable balance between the operation of the business and the living conditions of the neighbour. Finally, in the event of proposals to reinstate the paint spraying activity, I shall require the implementation of an agreed scheme for the filtration and extraction of fumes.

20. I have considered all other matters raised but find nothing of sufficient weight to change my conclusions. Accordingly the appeal succeeds on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

FORMAL DECISION

21. For the above reasons, and in exercise of the powers transferred to me, I allow your client's appeal and direct that the enforcement notice be quashed. I hereby grant planning permission on the application deemed to have been made under Section 177(5) of the amended Act for the development already carried out, namely the use of the land and building at Startop Farm, Startop's End, Lower Icknield Way, Marsworth, as shown on the plan attached to the notice, for the change of use from agricultural use to use for vehicle body repairs paint spraying and general vehicle repairs subject to the following conditions:

1. No more than 3 persons shall be employed at the premises.

2. All vehicle repairs and paint spraying shall take place within the building; there shall be no outside storage associated with the use; and the concrete apron to the north-east of the building shall be used for the parking and manoeuvring of vehicles and for no other purpose.

3. The premises shall be used for vehicle body repairs, paint spraying and general vehicle repairs to non HGV vehicles and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

4. The use of the workshop shall not be permitted except between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturday. The premises shall not be used on Sundays or Public Holidays.

5. Paint spraying shall not take place before equipment for the filtration and extraction of fumes has been installed in accordance with a scheme previously approved in writing by the Local Planning Authority.

22. An applicant for any approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

23. The developer's attention is drawn to the enclosed note relating to the requirements of the Buildings Regulations 1991 with respect to access for disabled people.

24. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully

David M H Rose

DAVID M H ROSE BA(Hons) MRTPI
Inspector

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