The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0272-87 8135
Switchboard 0272-878000
Fax No 0272-878769
GTN 1374-

Mavis Ann Foy
26 Goldfield Road
TRING
Herts
HP23 4AZ

Council reference: 4/0353/94EN
Our reference:
T/APP/C/94/A1910/632945
T/APP/C/93/A1910/631303 ← (4/1579/93)
Date: 29 JUN 94

Dear Madam

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT THE REAR OF PEAR TREE COTTAGE, LOWER ICKNIELD WAY, WILSTONE

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land and buildings. I have considered the written representations made by you and the Council. I inspected the site on 20 June 1994.

The Notices

Notice 1

2. (a) The notice was issued on 18 January 1994.

(b) The breach of planning control as alleged in the notice is the unauthorised erection on the land shown edged red on the plan attached to the notice of a building shown edged yellow on that plan.

(c) The requirements of the notice are:

(i) Dismantle and demolish the building.

(ii) Remove all materials arising from the dismantling and demolition from the site.

(d) The period for compliance with these requirements is 3 months.

Notice 2

3. (a) The notice was issued on 14 October 1993.

(b) The breach of planning control as alleged in the notice is the unauthorised erection on the land shown edged red on the plan attached to the notice of a building shown coloured black on that plan.

(c) The requirements of the notice are:

(i) Dismantle and demolish the building.

(ii) Remove all materials arising from the dismantling and demolition from the land.

(d) The period for compliance with these requirements is 3 months.

Grounds of Appeal

4. Your appeals in respect of each notice are proceeding on grounds (a), (b), (c) and (f) as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991.

The Sites and Surroundings

5. Taken together the appeal sites occupy an area of almost one hectare, and are situated to the south of Lower Icknield Way opposite its junction with Tring Road. The land is used for the keeping of poultry including ducks, geese and chickens. There are three buildings on the land, two of which are the subject of your appeals. To the south-west of the sites is Wilstone reservoir. The raised embankment surrounding this reservoir is accessible by way of public footpaths, one of which runs through your land.

The Ground (b) Appeals

6. The ground (b) appeals can succeed only if it is demonstrated that the matters alleged in the notices have not occurred. In this case both notices allege the erection of buildings. You submit that the buildings are replacements for earlier buildings destroyed by fire. That may well be the case, but so far as this ground of appeal is concerned it is immaterial whether the buildings subject of the notices are replacements or otherwise. As a matter of fact those buildings have been erected, and the ground (b) appeals must fail. Your other submissions under ground (b) are directed at whether or not a breach of planning control has occurred and at the planning merits of your case. I shall consider these submissions below when determining the appeals under grounds (c) and (a).

The Ground (c) Appeals

7. The essence of your argument is that the buildings subject of the notices are replacements for earlier buildings, and that they conform with policies towards landscape conservation and agriculture. So far as the references to policies are concerned, these are addressed to the planning merits of your case, and I will consider them in the context of the ground (a) appeals. As the Council correctly says, Sections 55[1A](b) and 336 of the Town and Country Planning Act 1990 make it clear that, for the purposes of this Act, "building operations" includes "rebuilding", which I take to be synonymous with your use of the word "replacement". It follows that specific planning permission is required for the buildings you have erected on your land, unless that development can be shown to be "permitted development" in accordance with the provisions of the Town and Country Planning (General Development Order) 1988 (GDO) as amended. Permitted development rights in respect of agricultural land having an area of less than five hectares are set out in Schedule 2 Part 6 Class B of the GDO. I have to say that the two

buildings you have erected do not fall within any of the specified categories of development permitted by the GDO. Accordingly, as specific planning permission for the erection of the buildings subject of the notices has not been granted, it follows that as a matter of fact there has been a breach of planning control. Accordingly, the ground (c) appeals must also fail.

The Ground (a) Appeals

8. From my inspection of the sites and their surroundings, and my consideration of the representations made, I consider that the main issue in each of these cases is whether the development causes unacceptable harm to the character and appearance of the area.

9. The sites lie in a rural area beyond the Green Belt where policies in the Dacorum District Plan and the emerging Dacorum Borough Local Plan seek generally to preclude inappropriate new development. Use of land for agricultural purposes, however, is one form of development acceptable in principle in rural areas such as this. More particularly, the sites are within an area designated as a Landscape Conservation Area, where the objective of adopted policies is to ensure a high standard of design of new development in order to protect the character and appearance of the area.

10. The two sites are used for keeping poultry, the buildings subject of the notices being used to house some of the birds and for storage of straw, feedstuffs, and equipment used on the holding. Both buildings are of substantial size, and are constructed of timber with a cladding of corrugated metal sheeting. The standard of finish of the buildings is not high, and in my opinion they constitute an unsightly intrusion into what is generally an attractive landscape. Moreover, both buildings are prominent in views from public vantage points, particularly from the public footpath which crosses your land, and from the reservoir embankment which affords a panoramic view over the surrounding countryside. I do not hesitate to conclude that the buildings detract to a considerable, and unacceptable, extent from the character and appearance of the area. For this reason, although the buildings are used for agricultural purposes, which is an acceptable use in the countryside, I cannot accept your submission that erection of the buildings complies with the provisions of Local Plan policy 5. This policy specifically indicates that only "small scale building ... which has no significant impact on the character and appearance of the countryside, will be permitted." In my opinion the unauthorised development is not small in scale, and it has a significant adverse impact on the area. Similarly, your argument that replacing the earlier buildings destroyed by fire somehow maintains and restores the area to its original appearance is to my mind weak and unconvincing.

11. Having considered all the evidence before me, I conclude that the development causes unacceptable harm to the character and appearance of the area.

12. I have taken account of all other matters raised. In particular, the facts that the buildings are replacements for earlier structures, and that they are used for agricultural purposes, are not in themselves sufficient reason to grant planning permission for retention of the buildings. Any replacement buildings which might be permitted would have to be of a high standard of design and appearance to be acceptable in this sensitive location. In my view the unauthorised buildings fall well below the required standard.

None of these matters is sufficient to outweigh the conclusion on the main issue which has led me to my decision. Accordingly, the ground (a) appeals also fail.

The Ground (f) Appeals

13. You say that the requirements to demolish the buildings are excessive, given that the Council's basic objection appears to be to the flat roofs of the buildings. It seems to me, from reading paragraph 6.8 of the Council's second Written Statement, that the Council's objection to the development is more wide ranging than you suggest. In that Statement it is clearly indicated that, apart from the form of the roof, the Council is also concerned about siting, size, design and materials of the development. I have already indicated, in determining the ground (a) appeals, that I share the Council's reservations about the overall visual impact of the buildings. I am not satisfied that this drawback can be overcome simply by making alterations to the buildings. For this reason I consider that the requirements of the notice are not excessive. Accordingly, the ground (f) appeals fail.

FORMAL DECISIONS

Notice 1

14. For the above reasons, and in exercise of the powers transferred to me, I dismiss your appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the amended Act.

Notice 2

15. For the above reasons, and in exercise of the powers transferred to me, I dismiss your appeal, uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the amended Act.

RIGHTS OF APPEAL AGAINST DECISIONS

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

Yours faithfully

Neil Roberts

Neil Roberts BA DipTP MRTPI
Inspector

ENC

date
your reference
our reference
contact
extension

8 June 1994

4/0353/94EN
Ms.Kirkpatrick/Mr McFarland
2228/2579

DACORUM BOROUGH COUNCIL
twinned with Neu-Isenburg
Germany

Civic Centre Hemel Hempstead Herts HP1 1HH
Telephone: (0442) 60161 Switchboard
(0442) Directline

FOR INFORMATION

Dear Sir/Madam

TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (ENFORCEMENT NOTICES & APPEALS) REGULATIONS 1991
APPEAL BY MRS M A FOY
SITE: LAND AT THE REAR OF PEAR TREE COTTAGE, LOWER ICKNIELD WAY, WILSTONE GREEN, WILSTONE, TRING.

I write to inform you that a second appeal has been lodged with the Secretary of State for the Environment against an enforcement notice served by the Borough Council regarding the above site. This appeal is in addition to that received under reference 4/1579/93EN and refers to a different unauthorised building.

The enforcement notice alleges that a breach of planning control has occurred, relating to the erection of a building, without planning permission, located 20 metres to the south east of Pear Tree Cottage. It is a flat roofed structure with a timber frame and walls which has subsequently been provided with a profile steel cladding.

The reasons for issuing the Notice relate to the location of the site within a rural and landscape conservation area. It is considered that the building conflicts with strict Council policies controlling i) acceptable uses; ii) the setting, siting, design and external appearance of development in the landscape; and iii) the character and appearance of such sensitive areas. The building is not an appropriate re-use of a redundant building. Given its design and materials, the building creates a harmful intrusion to the visual amenity of the area.

The notice requires the dismantling and demolition of the building; and the removal from the site of all resulting materials, within three months of the effective date of the notice.

The appeal against the notice is on grounds (a), (b), (c) and (f);

That planning permission ought to be granted for the development; that the alleged matters have not occurred; that those matters do not constitute a breach of planning control; and that the requirements of the Notice are excessive.

The appellant has also submitted a supporting statement of facts.

An inspector has been appointed by the Secretary of State to determine this appeal. It will be dealt with by an exchange of written statements and a site visit by the Inspector. It is open to the Inspector to grant permission for the developments.

Interested parties may give their views in writing, direct to the Department of the Environment, Room 11.11(2), Tollgate House, Houlton Street, Bristol BS2 9DJ, quoting reference number APP/C/93/A1910/632945. Any written comments should be sent within 28 days of the date of this letter, and you should note that copies of your letter will be sent by the Department to the Council and the appellant.

Copies of the Notice, the appellant's grounds of appeal and the Council's written statement can be inspected at the Planning Department during normal office hours. You need not wait to inspect the Council's statement before sending your comments.

If you would like to receive a copy of the Secretary of State's decision letter or wish your correspondence to be acknowledged, you should mention this in your letter.

Yours faithfully

L. Kirkpatrick

L KIRKPATRICK
DEVELOPMENT CONTROL TECHNICIAN
PLANNING DEPARTMENT

APPEAL 4/0353/94EN
LAND TO REAR OF PEAR TREE COTTAGE, LOWER ICKNIELD WAY, WILSTONE
(SECOND ENFORCEMENT APPEAL)

LIST OF PEOPLE NOTIFIED

Mr S A Jenkinson
88 Brook Street, Aston Clinton, Aylesbury, Bucks HP22 5ET

(Owner of Pear Tree Cottage)

Mr D Mead
Little Farm, Lower Icknield Way, Wilstone Green, Tring

also notified at:
Wilstone Great Farm, Lower Icknield Way, Wilstone

Owner/occupier:

The Moors, Lower Icknield Way, Wilstone Green, Tring

Mrs P Evans (Tring Rural Parish Council)
Kingfishers, Sandbrook lane, Wilstone HP23 4PF

Mrs T Butcher
Clerk to Tring Rural Parish Council
Miswell House, Tring HP23 4JT

Cllr Mrs M Arnold
Foye, 45 Beaconsfield Road, Tring HP23 4DW

Cllr D K Townsend
54 Millview Road, Tring HP23 4EP

The Editor
Gazette & Express Newspaper, 39 Marlowes, Hemel Hempstead

The Editor
Herald & Post, Herald House, Church Street, Luton, Beds

23 February 1994

4/1579/93EN
Ms.Kirkpatrick
2228

FOR INFORMATION

Dear Sir/Madam

TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (ENFORCEMENT NOTICES & APPEALS) REGULATIONS 1991
APPEAL BY MRS M A FOY
SITE: LAND AT THE REAR OF PEAR TREE COTTAGE, LOWER ICKNIELD WAY, WILSTONE GREEN, WILSTONE, TRING.

I write to inform you that an appeal has been lodged with the Secretary of State for the Environment against an enforcement notice served by the Borough Council regarding the above site.

The enforcement notice alleges that a breach of planning control has occurred, relating to the erection of a building, without planning permission, in the position shown on the attached plan.

The reasons for issuing the Notice relate to the location of the site within a rural and landscape conservation area. It is considered that the building conflicts with strict Council policies controlling i) acceptable uses; ii) the setting, siting, design and external appearance of development in the landscape; and iii) the character and appearance of such sensitive areas. The building is not an appropriate re-use of a redundant building. Given its design and materials, the building creates a harmful intrusion to the visual amenity of the area.

The notice requires the dismantling and demolition of the building; and the removal from the site of all resulting materials, within three months of the effective date of the notice.

The appeal against the notice is on grounds (a), (b), (c) and (f);

That planning permission ought to be granted for the development; that the alleged matters have not occurred; that those matters do not constitute a breach of planning control; and that the requirements of the Notice are excessive.

The appellant has also submitted a supporting statement of facts.

An inspector has been appointed by the Secretary of State to determine this appeal. It will be dealt with by an exchange of written statements and a site visit by the Inspector. It is open to the Inspector to grant permission for the developments.

Interested parties may give their views in writing, direct to the Department of the Environment, Room 11.11(2), Tollgate House, Houlton Street, Bristol BS2 9DJ, quoting reference number APP/C/93/A1910/631303. Any written comments should be sent within 28 days of the date of this letter, and you should note that copies of your letter will be sent by the Department to the Council and the appellant.

Copies of the Notice, the appellant's grounds of appeal and the Council's written statement can be inspected at the Planning Department during normal office hours. You need not wait to inspect the Council's statement before sending your comments.

If you would like to receive a copy of the Secretary of State's decision letter or wish your correspondence to be acknowledged, you should mention this in your letter.

Yours faithfully

L. Kirkpatrick

L KIRKPATRICK
DEVELOPMENT CONTROL TECHNICIAN
PLANNING DEPARTMENT