



The Planning Inspectorate

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PLANNING DEPARTMENT			
DACORUM BOROUGH COUNCIL			
Mr W G Moran	Ref.	Council Reference:	
Gadespring Watercress Beds	4/1673/93EN		
Old Fishery Lane		Our Reference:	
HEMEL HEMPSTEAD		T/APP/C/93/A1910/632035	
Hertfordshire	Received 31 MAY 1994	Date: 27 MAY 94	
Comments			

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT GADESPRING WATERCRESS BEDS, OLD FISHERY
LANE, HEMEL HEMPSTEAD, HERTFORDSHIRE

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. I have considered the written representations made by you, by the Council, and by interested persons. I inspected the site on 16 May 1994.

THE NOTICE

2. (1) The notice was issued on 28 October 1993.

(2) The breach of planning control as alleged in the notice is, without planning permission, change of use of land from agricultural use to mixed use for agriculture and for stationing a residential caravan.

(3) The requirements of the notice are:

(i) Remove the caravan from the site.

(ii) Cease using the site for the siting of a residential caravan.

(4) The period for compliance with these requirements is twelve months.

THE APPEAL

3. Your appeal is proceeding on ground (a) as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, that is to say that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.



4. The extent of the Metropolitan Green Belt in the Borough is defined in the adopted Dacorum District Plan. It includes the appeal site. From my consideration of the written representations and my inspection of the site and its surroundings, it is my opinion that the main issues in determining this appeal are; firstly, whether the development is appropriate within the Green Belt and, if not, whether there are any very special circumstances which justify it; and secondly; its effect on the landscape.

5. The draft of the Dacorum Borough Local Plan has been placed on deposit and been the subject of a public local inquiry. It is therefore at an advanced stage of preparation and generally deserves to be accorded substantial weight. However, in my opinion, there is one exception to this which is relevant to the first issue. This is criterion (a) of policy 22. This requires that, for agricultural workers' dwellings to be established in the Green Belt, it must be firmly established that the related agricultural operation is viable. Annex E to Planning Policy Guidance Note (PPG) 7 points out that financial viability is not a proper concern of the planning system. However, the land use implications of the enterprise are. The Council does not explain why criterion (a) differs from national policy. I shall therefore consider the first issue in the light of national policy as set out in the PPG.

6. The policy sets out, firstly, a test to establish whether it is essential for the proper functioning of the enterprise for a worker to be readily available at most times. An appraisal of this was given by the County Land Agent in October 1992. He concluded that it was not essential for anyone to live on the site in order to ensure the proper operation of the beds and associated activities. I share this conclusion. The only significant change since this appraisal is that only 14 of the original 42 watercress bays are now functioning. When the appraisal was prepared 28 of them were. You place particular emphasis on problems arising as a result of vandalism. I am satisfied that potential vandalism was taken fully into account in the 1992 appraisal. I am not persuaded that it has increased to such a degree since then as to make it unrealistic to operate the beds without a permanent on-site presence.

7. As the development fails the functional test set out in the PPG, it is not necessary to apply the second test, a financial one. In any event, whilst there is information for 1990, there is none which would enable such a test to be applied to the enterprise as it is currently operated.

8. You wish the deemed application to be considered as an application to station the caravan for a temporary period. You suggest that a period of some 3 years would enable you to demonstrate that a permanent presence on the site is essential for the proper running of the enterprise. The Council's Committee report dated 1 October 1992 states that the caravan had, at that time, been on the site for over 1 year. It has therefore now been there for over 2½ years. In my opinion that is an

adequate period in which to prove any agricultural necessity for on-site accommodation. This has not been done.

9. As the caravan is not required in connection with agriculture it is not appropriate development within the Green Belt. Furthermore, it constitutes an encroachment of residential development into the countryside. The Structure Plan and the adopted Local Plan contain policies which apply a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. In my opinion you have not identified any such circumstances.

10. Regarding the second issue, the site is within a "landscape development area" defined in the emerging Local Plan. Policy 91 requires that proposals should improve the character and appearance of this area. Policy 106 applies this particularly to the vicinity of the Grand Union Canal, which adjoins the site. There is an existing group of buildings, including a refrigeration room and bunching room, at the end of the site nearest to Old Fishery Lane. Those are timber buildings in generally poor condition. The caravan is sited alongside them. Timber fencing and gates on the site frontage largely screen them from the Lane. There is a towpath on the opposite side of the canal. It passes through generally open countryside on the edge of the built-up area. In my opinion the caravan is a prominent and obtrusive feature when seen from a significant section of it. I do not consider the fact that it partly screens the timber buildings outweighs the harm which it causes to the landscape.

11. I have considered the effect of conditions which might require the relocation or screening of the caravan. I believe that those could reduce the impact of the caravan on the landscape. However unless the entrance gates are permanently shut, there would be views through the entrance into the site. In the light of this I do not believe that such conditions could make the caravan acceptable.

12. The caravan is the only accommodation which you and your wife have. The Council is unable to provide housing accommodation for you. I therefore have considerable sympathy for the situation in which you will find yourselves if the notice is upheld. However I do not consider that your personal circumstances justify overriding the long-standing and very important policies which apply to the countryside and the Metropolitan Green Belt. In this regard I note that the Council has specified a long period for compliance. I think that this gives you a reasonable opportunity to look for alternative accommodation.

13. I have also taken into account all the other matters raised in the representations including the caravan which is sited on the opposite bank of the canal to yours, and the appeal decisions to which you refer. However, neither these nor any other matters raised are of sufficient weight to affect my conclusions on your appeal.

FORMAL DECISION

14. For the above reasons, and in exercise of the powers transferred to me, I dismiss your appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under S177(5) of the amended Act.

RIGHTS OF APPEAL AGAINST DECISION

15. 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

A handwritten signature in dark ink, appearing to read 'W J Weeks', with a horizontal line underneath.

W J WEEKS FRICS
Inspector

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