



Planning Inspectorate

Department of the Environment

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22 JAN 1991

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Refer to *DP 22/1*
Referred

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Admin

File

Ellis and Hancock
Solicitors
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Herts

Your Reference:

- Received

23 JAN 1991

Council Reference:

4/1887/89E

Our Reference:

T/APP/C/89/A1910/000007/P6

Date:

18 JAN 91

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
APPEAL BY MR R R SHERFIELD
LAND AND BUILDINGS AT LONG MEADOW FARM, LEIGHTON BUZZARD ROAD,
PICCOTTS END, HEMEL HEMPSTEAD

1 I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land and buildings. I held an inquiry into the appeal on 11 December 1990 and I inspected the site on the same day.

- 2 a The date of the notice is 10 October 1989.
- b The breach of planning control alleged in the notice is "Change of use from use for agriculture to a mixed use of use for agriculture and use for stationing of a caravan used for residential purposes".
- c The requirements of the notice are "Cease the use of the land for the stationing of a caravan for residential purposes".
- d The period for compliance with the notice is six months.
- e The appeal was made on the grounds set out in Section 174(2)(a) and (h) of the 1990 Act.

The appeal site and surroundings

3 The appeal site comprises some 6.5 hectares of land, much of it down to grass. There is also a substantial modern complex of buildings and yards. The largest barn is some 18 by 9 metres. The caravan in question is about 8.5 by 3 metres. A small garden area has been formed around it, largely enclosed by panel fencing some 2 metres high.



4 The site is located off the A4146 Leighton Buzzard Road, about a mile to the north of Hemel Hempstead. A gas distribution centre and a garden centre are close to the complex of buildings on the appeal site. There is a large electricity sub-station nearby, lines to which cross the site.

5 The appeal site land falls gently to the River Gade, before rising on the further valley slope. There is a substantial fish farm in the valley bottom, near the north-western part of the appeal site. Beyond this is a small area of housing, gaining access past the northern side of the appeal site via Noke Mill Lane.

Ground (a) and the deemed application

6 The appeal site is in the Metropolitan Green Belt. An Article 4 Direction was placed on the land in 1963, restricting the erection of agricultural buildings. I consider the main issue to be whether there are very special circumstances to justify the retention of this residential caravan in the Green Belt.

7 The Green Belt policies are set out in the Hertfordshire County Structure Plan and the Dacorum District Plan. A Dacorum Borough Plan to replace the latter is in draft, but there is no intention to alter the Green Belt policies as they affect this site. Policy 51 of the Structure Plan refers to the classes of development normally permitted in the Green Belt. These do not include houses. The Draft Borough Plan indicates the Council's intention to treat caravans very similarly to houses, and this is in my experience a matter of common practice.

8 The appellant places most reliance on the establishment of a need for a dwelling on the site for agricultural reasons. He has laid emphasis on his family's background as tenant farmers in the locality, the lands having been taken for urban development. He bought the appeal site in 1982. At first he bred pigs there, keeping an average of about 120, and a small number of store cattle. He found this too difficult, however, living in the family home some two miles away, and turned to buying in pigs for fattening up to 70 kilos, with the result that rather fewer animals were kept. Up to this time he was engaged in a motor vehicle business, but this was sold in 1986. In January 1987 he had to leave the family home for personal reasons, and then placed the caravan on the land, resumed pig breeding, and worked full time on the holding until November 1988. He obtained planning permission for the erection of two barns of similar size, and succeeded in completing one. It was still his intention to build the other. In 1987-88 he was making about £100 per week from the holding, though about a quarter of this was from stabling. He had found, however, that whilst he could subsist on the land, he could not build up capital to develop the enterprise. He thus took a full-time job, which he retains. He was in something of a cleft stick; though his work hours were flexible the time which he could devote to the holding was obviously reduced, but he needed paid employment to build up capital. He needed the second barn to give him the capacity to increase stock numbers, and realistically it could take

him 5 years to achieve this. If he built up stock numbers to say 20 sows and 200 followers the enterprise should be economic as the term was ordinarily understood in planning cases.

9 The Council have asserted that they apply local planning policies in a way which accords with Government policies. Development Control Policy Note No 4 pointed to "the nearby village" as a possible location for the farmer or worker to live in. Both DCPN 4, Planning Policy Guidance Note No 7, and the Annex to Circular 24/73, implied a requirement to demonstrate a need for accommodation on the holding itself, and not just that it would be convenient. It was the expert opinion of the County Land Agent that it was not essential for an agricultural worker to reside at this holding. The appeal site lay only about a mile from Hemel Hempstead in one direction and Great Gaddesden in another. There were a number of dwellings in the locality subject to agricultural occupancy conditions, and as recently as 1987 an Inspector had declined to remove such a condition on the grounds that it would set a precedent and reduce the stock of housing available to agricultural workers.

10 Visual impact, the Council submitted, was an important consideration, finding formal expression in Policy 47 of the Structure Plan. The locality must have been considered subject to a serious threat of harmful development for an Article 4 Direction restricting agricultural buildings and the like to be confirmed in 1964. Though not much of the caravan was visible from the Leighton Buzzard road, it was clearly visible from the reverse slopes of the Gade Valley, and would be the more so if the inappropriate fencing was not there. There were several Listed Buildings in the area to the immediate north and west of the appeal site. The caravan and the dilapidated and unsightly structures which surrounded it were detrimental to the visual appearance of the area. Action would be pursued with a view to the removal of the unsightly structures which were, unlike the larger barn, unauthorised. The appellant had planted some small conifers, but such planting was itself inappropriate in this area. If permission was granted there might be pressure for a permanent dwelling and a larger curtilage, which would in turn represent an unacceptable encroachment on the countryside.

11 In my opinion agricultural viability is the most important matter in the consideration of whether very special circumstances exist. The minimum agricultural wage in 1986 was about £94 per week, and in 1987 £104. The appellant has stated that his average income from the enterprise between January 1987 and November 1988 was about £100, though the Council have emphasised that this contention has not been backed up by the production of accounts or the like. At all events the appellant did not dissent from the contention that about a quarter of his income in 1987-88 would also have been from stabling, which is not counted as farm income, and from which he currently earns £24 per week. On this basis the farm income must have fallen well short of the minimum wage, and having regard to the Annex to Circular 24/73 and its common interpretation in appeal decisions, I am satisfied that viability did not exist even during the 1987-88 period when your client was living on the land and had no other occupation.

12 I appreciate that potential, as opposed to current, viability has led not infrequently to planning permissions for residential caravans, usually for temporary periods. However, I am conscious that the appellant has sought to develop the agricultural enterprise on this land since 1982. If circumstances have conspired against him, the fact remains that he has not been able to establish a viable enterprise over this seven or eight year period. He has mentioned an aspiration to have three pigs per week butchered. On the basis of "The Pig Management Scheme Results for 1989" from the Agricultural Economics Unit at Cambridge University, the average profit which a reasonably competent farmer could be expected to achieve per 70 kilo animal was £5. Even though the appellant would sell the meat himself, the total receipts would be small. I cannot accept that the farm income would by such means come anywhere near the minimum agricultural wage figure. It may be that your client did not think through this aspect at the inquiry, and I accept that looking at the matter more generally the unit is large enough to accommodate a viable pig enterprise. I inevitably come back, however, to the appellant's own resources and achievements. In my opinion, it is unlikely that even living on the holding he would achieve more than a competently managed small-holding, supplementing income from other sources, but never capable of giving more than a bare subsistence on its own.

13 If the unit had achieved viability it might well have been held reasonable for one person to live there for farrowing, supervision and security, notwithstanding the proximity of Hemel Hempstead and outlying villages. Given the proximity of the garden centre, developed I understand in accordance with planning permissions, and the gas and electricity installations, I do not consider the visual effect of the caravan itself to be of much account. I appreciate that a small business is concerned here, and as a matter of Government policy small businesses should be supported wherever possible. Your client may well suffer hardship if impelled to move from the site. These points must, however, be balanced against the very strong objections grounded in the policy context. I conclude that the latter should prevail, and that planning permission ought not to be granted even for a temporary period.

14 Accordingly, the appeal on ground (a) fails, and I do not consider it appropriate to grant planning permission in accordance with the application deemed to have been made.

Ground (b)

15 The Council referred to the fact that the unauthorised occupation was first drawn to the appellant's attention well over two years ago, and that some 15 months had elapsed since they refused planning permission for the development. The appellant had thus had more than adequate time to find alternative accommodation. However, the Council would not object to an extension of the six month compliance period if this was considered the appropriate course.

16 The appellant had no obligation to re-assess his position until the decision in this appeal. I am conscious that he may well need not only to find alternative living accommodation in a relatively high cost area

of the country, but change the nature of his enterprise away from concentration on pig breeding. In these circumstances I consider that the twelve months which he requests would be a reasonable period for compliance.

Other matters

17 I have taken into account all other matters raised at the inquiry and in written representations but none has the weight to affect my decision.

FORMAL DECISION

18 For the above reasons and in exercise of the powers transferred to me I hereby direct that the notice be varied by deletion from the section beginning NOTICE IS HEREBY GIVEN of the words "six months" and their replacement by the words "twelve months". Subject thereto I dismiss this appeal, uphold the enforcement notice, and refuse to grant planning permission in accordance with the application deemed to have been made under Section 177(5) of the 1990 Act.

RIGHT OF APPEAL AGAINST DECISION

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

I am Gentlemen
Your obedient Servant



E K Seymour BA MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr J F Hancock

Solicitor;
Ellis & Hancock

he called:

Mr R R Sherfield

the appellant

FOR THE COUNCIL

Mr R Higginson

Solicitor:
Dacorum Borough Council

he called:

Miss A Bochnacki
BSc DipTP MRTPI

Principal Planning Officer
Dacorum Borough Council

Mr C Franklin
FRICS CAAV

Principal Land Agent
Hertfordshire County Council

DOCUMENTS

- Doc 1 - list of persons present at the inquiry
- Doc 2 - letter notifying inquiry/addressees
- Doc 3 - letter of Mr N Whittaker
- Doc 4 - letter of Great Gaddesden Parish Council,
enclosing letter of 2.6.90

In evidence of Miss Bochnacki:

- Doc 5 - extracts Hertfordshire County Structure Plan
and Dacorum District Plan
- Doc 6 - letter County Planning & Estates Officer, 1.11.90
- Doc 7 - copy appeal decision T/APP/A1910/A/87/069259/P3
- Doc 8 - copy Article 4 Direction (Herts. No. 3 Order 1963)
- Doc 9 - plan of appeal site and surroundings, Article 4 Direction
area, public footpaths.