



The Planning Inspectorate

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25 JUL 1999

Peter Carter Associates
1 Waterloo Cottages
Tempsford Road
Everton
SANDY
Bedfordshire SG19 2JW

Your Reference: PJ99
Our Reference:
T/APP/A1910/A/99/1021288/P8

Date:

23 JUL 1999

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 AND SCHEDULE 6
APPEAL BY MR P JOHNSON
APPLICATION NUMBER: 4/02004/98/FUL

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of Dacorum Borough Council to refuse planning permission for replacement of mobile home with permanent dwelling on land at Birchin Grove, Pepsal End Lane, Markyate, Herts. I conducted a hearing on 6 July 1999.

THE PROPOSED DEVELOPMENT, THE SITE AND ITS SURROUNDINGS

2. The detailed scheme before me seeks permission for the replacement of an established residential mobile home with a permanent dwelling. The site upon which it is proposed to erect the two storey house has been cleared and has a hard surfaced base. However, it has not as yet been occupied by a mobile home. Planning permission was granted under Reference 4/01327/97/FUL dated 6 November 1997 to relocate the mobile home from a position within an adjoining scaffolding yard which your client owns and operates, to the present appeal site which is a clearing within an otherwise lightly wooded area. The application form indicated that the mobile home to be relocated would have a floor area of 48m². The proposed replacement dwelling would have a footprint of 92m² and an overall floor area of 162m².

3. The total land holding belonging to your client is some 3.2 ha and includes a small paddock close to Pepsal End Lane, a scaffolding yard (approximately 0.25 ha) with the balance being undeveloped woodland. The site is located adjacent to Pepperstock, an area of mostly open countryside with a number of sporadic residential dwellings, a caravan site and a fireworks factory. It is approximately 2km from the southern outskirts of Luton.

POLICY CONSIDERATIONS

4. The Development Plan comprises the Hertfordshire Structure Plan Review which was adopted in April 1998 and the Dacorum

Borough Local Plan (1995). Section 54A of the Town and Country Planning Act 1990 (as amended) requires me to determine this appeal in accordance with the policies and proposals of the Development Plan unless material considerations indicate otherwise. My attention has also been drawn to the Decorum Borough Local Plan (1991-2011), a Deposit Draft of which was published in October 1998. It is my intention to accord its policies and proposals due weight in my determination of this appeal.

5. Policy 5 of the Structure Plan includes proposals to extend the Green Belt. The extension proposed in the Markyate area will include the appeal site. The policy suggests that "The precise boundaries of the Green Belt ... shall be as defined in District Local Plans." You accept that, in due course, the appeal site will be subject to Green Belt policies once the Review of the Local Plan has been completed. In the meantime, it is subject to the policies of the adopted Local Plan.

6. The site is within a Rural Area and a Landscape Development Area on the Proposals Map to the Local Plan. Policy 6 sets out the general policy of restraint in Rural Areas, but recognising that extension and replacement of existing dwellings may be permitted. Policy 20 relates to extensions to dwellings in the Green Belt and Rural Area and contains criteria aimed primarily at protecting the character of the location.

7. Policy 21 relates to replacement dwellings in the Green Belt and Rural Area. It states that replacement is acceptable subject to a number of criteria: (a) - that the original dwelling still exists and has been recently occupied; and (b) - that the new dwelling does not replace temporary accommodation nor a building constructed of short life materials. It also states that, save for an extension allowance under Policy 20, the dwelling should not be larger than the original. Policy 24 suggests that proposals for caravans and mobile homes will be treated as though they were for residential buildings and will therefore be subject to the same policies and criteria. Policy 92 suggests that development proposals will only be permitted where they include a detailed scheme for appropriate landscape creation, development and improvement. Such measures would include tree and hedge planting and general landscaping and the restoration of damaged and unsightly land.

8. Given that the site is within a proposed extension to the Green Belt and your acceptance of the fact that there are no objections to the detailed boundaries of that extension so far as they affect the appeal site and the immediately surrounding area, it is my intention to consider the proposal before me by reference to guidance in PPG 2 and the emerging Green Belt policies of the Deposit Draft Local Plan. Insofar as the other policies of the Deposit Draft are concerned I have been supplied with copies of a number of policies and their supporting texts. I have taken these into account in formulating my decision. The specific policies are Policy 3 (The Green Belt); Policy 23 (Extensions to Dwellings in the Green Belt and Rural Area); Policy 24 (Replacement Dwellings in the Green Belt and Rural Area); Policy 27 (Residential Moorings and Caravans) and Policy 98 (Landscape Development Areas). In particular, Policy 3

permits the replacement of existing houses under Policy 24 and the extension of existing houses under Policy 23.

9. Advice in PPG 2 states that "the general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them." The construction of new buildings inside a Green Belt is inappropriate unless it falls within one of the categories set out in Paragraph 3.4 of the guidance. Indent 3 of that paragraph refers to the limited extension, alteration or replacement of existing dwellings (subject to Paragraph 3.6). Paragraph 3.6 states that any replacement dwelling need not be inappropriate providing the new dwelling is not materially larger than the dwelling it replaces. Development Plans shall make clear the approach Local Planning Authorities will take, including the circumstances (if any) under which replacement dwellings are acceptable. Paragraph 3.15 of the guidance also requires that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which might be visually detrimental by reason of their siting, materials or design.

THE PRINCIPAL ISSUE

10. From my inspection of the appeal site and surrounding area and consideration of the representations made at the hearing and in writing, I consider the principal issue to be whether the detailed proposals before me for a replacement dwelling would be harmful to the appearance of the rural area or would compromise the adopted policy of the Structure Plan and the emerging policies of the Local Plan to include the site and surrounding area within a proposed extension to the Green Belt, wherein there will be a strong presumption against inappropriate development.

DISCUSSION AND CONCLUSIONS ON THE PRINCIPAL ISSUE

11. The Borough Council do not contest that the principle of a residential unit on the appeal site has been established. They also agree that mobile homes should normally be considered under the same policies as more permanent residential units within the Green Belt. This is the approach advocated in Policy 24 of the adopted Local Plan and Policy 27 of the Deposit Draft. The Council's objection relates to the size, location and visual impact of the proposed dwelling and its domestic curtilage upon the openness and character of the surrounding area, which is likely to become part of the Green Belt.

12. In my opinion it is necessary for me to judge your client's proposal by reference to guidance in PPG 2. Indent 3 of Paragraph 3.4 allows for the replacement of existing dwellings in the Green Belt providing the new dwelling is not materially larger than the dwelling it replaces. This advice is echoed in Policies 20 and 21 of the adopted Local Plan and Policies 23 and 24 of the Deposit Draft.

13. The Council consider that the size of any dwelling to be permitted on the appeal site should relate to the size of the mobile home for which permission was sought in August 1997,

namely 48m², which is more than double the size of the existing structure on the original site within the scaffolding yard (22.5m²). Even taking account of extensions permitted under Policy 20 of the Local Plan and Policy 23 of the Deposit Draft, a building of the size now proposed would represent a substantial increase which could not be justified in terms of policy and which would be damaging to the openness of the Green Belt and the Rural Area. Although the Council concede that the position of the proposed dwelling within the wooded site represents an improvement over the position of the existing mobile home, the development, they suggest, would be clearly visible from the adjacent definitive footpath.

14. The application made to the Local Authority stated that the structure would have a floor area of 48m². As you point out, your client could extend the mobile home by the addition of further sections. It was agreed at the hearing, however, that in order to meet the statutory definition of a caravan or mobile home the structure should have a floor area which equated to no more than 111.5m² (Byrne v. The Secretary of State for the Environment and Arun). This would be considerably less than the house now proposed (162m²) but greater than its footprint (some 92m²).

15. The site forms part of an area of woodland which includes a commercial use as a scaffolding yard within a defined portion of your client's land holding. The appeal site itself is well screened in views from most directions by landscaped earth bunds provided as a requirement of the 1995 permission to retain the scaffolding contractor's yard. Limited views of the site would, however, be possible from the public footpath to the southwest through the existing tree screen. A replacement mobile home, for which permission was granted in 1997, would be far less noticeable than the existing caravan within the scaffolding yard which closely abutts the boundary fence and which is plainly visible from the footpath. This, no doubt, influenced the Council in permitting the relocation to the present appeal site.

16. Your client has not implemented the 1997 permission, but could do so at any time until November 2002. There are no conditions which require further matters to be approved. The fact that your client has not expended monies to buy a mobile home and place it on the site should not, in my opinion, colour my view as to the operation of the policies which I have described above. It is necessary for me, therefore, to form a judgement as to the advantages and disadvantages of the proposed dwelling as compared with the placement of a mobile home on the site with the possibility that such a unit could be added to in the future to a maximum of 111.5m².

17. Views into the site from the public footpath are, for the most part, obtained beneath the canopy of mature oak and beech trees. Some screening at a lower level is provided by existing holly bushes and other undergrowth. It is likely that the first floor and roof of the proposed house would be screened in the summer months and partially screened by the mature trees in winter when the trees are not in leaf. The lower part of the house and, in the case of a mobile home, the whole of that structure, would be visible through the tree screen. There is a

possibility that an extended mobile home could have a larger footprint than the ground floor of the proposed house. Its materials are unlikely to be as attractive and appropriate to a rural area as those suggested for the dwellinghouse. It is also likely that a mobile home would, in time, as you suggest begin to degrade in appearance, whereas the brick, rendered and timber elevations of the house may well mellow with age. The chosen materials and appearance of the proposed dwelling would also be similar to that recently approved at Keepers Cottage just to the west of the appeal site. For these reasons, I consider the proposed house would be more appropriate to this Rural Area than a mobile home of unspecified materials. It is, however, necessary to consider the implications in terms of the existing and emerging policies of the Development Plan.

18. The proposals accord with Policy 21 of the Local Plan and Policy 24 of the Deposit Draft given that a mobile home could be placed on the site at any time. I do not consider it reasonable to expect your client to place a mobile home on the site and then to remove it in order to comply with Criterion (a) of these policies. As to Criterion (b), it is accepted that the mobile home site is permanent. Moreover, I have concluded that, subject to some additional screen planting and the removal of the existing caravan within the scaffolding yard, the scheme before me could meet the three requirements set out in the second part of emerging Policy 24. For the reasons which I have set out above, I am of the opinion that although larger than the mobile home which it would replace there are specific reasons in this case for making an exception. Similar reasons apply when considering the proposal against guidance in Paragraph 3.6 of PPG 2.

19. I have had regard to the other matters raised at the hearing and in written representations but none is of sufficient strength to outweigh the considerations which have led to my decision.

CONDITIONS

20. You have raised no objection to the conditions suggested by the Council. These require prior approval of the materials to be used externally and for details of both hard and soft landscaping to be approved, with any works of planting to be undertaken in the next planting season following completion of the dwelling. To my mind, these conditions and that which removes rights under the General Permitted Development Order are reasonable and necessary given the sensitive location of the site. As to the landscaping condition, it was suggested during the hearing that some strengthening of the southwest boundary using holly or other indigenous evergreen species would assist in screening the proposed house in views from the footpath. Some additional planting on the site of the existing caravan once it has been removed would also assist in screening the scaffolding yard and could be undertaken at relatively little cost to your client.

FORMAL DECISION

21. For the above reasons, and in exercise of the powers

transferred to me, I hereby allow this appeal and grant planning permission for the replacement of mobile home with permanent dwelling on land at Birchin Grove, Pepsal End Lane, Markyate, Herts, in accordance with the terms of the application, Number: 4/02004/98/FUL dated 24 November 1998 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of five years from the date of this permission;
2. no development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling have been submitted to and approved in writing by the Local Planning Authority; development shall be carried out in accordance with the approved details;
3. no development shall take place until full details of both hard and soft landscaping to the site have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with such approved details before the dwelling is occupied or, in the case of planting, in the next planting season following completion of the dwelling;
4. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order, with or without modification) no extension or other alteration permitted under Schedule 2, Part 1, Classes A to F inclusive of that Order, shall be constructed without the prior written approval of the Local Planning Authority;
5. the permission hereby granted is an alternative to and not in addition to, either wholly or in part, the following:

Reference No:	Development	Date of Permission
4/1327/97/FUL	Relocation of mobile home site - Birchin Grove, Pepsal End Lane, Pepperstock	6 November 1997

No part of the development referred to in the above permission shall be carried out if any part of the development hereby permitted has been implemented;

6. prior to first occupation of the dwelling hereby permitted, the existing mobile home marked 'D' on the approved plans (Drawing No: PCA/PJ/981) shall be removed from that land; and the land shall not thereafter be used for the purposes of the stationing of a residential mobile home;

7. no development shall take place until a plan clearly showing the extent of the residential curtilage associated with the dwelling hereby permitted has been submitted to and approved in writing by the Local Planning Authority.

22. These conditions require further matters to be agreed by the Local Planning Authority. There is a right of appeal to the Secretary of State if they refuse any such application, fail to give a decision within the prescribed period, or grant a conditional approval.

23. This letter only grants planning permission under Section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent that may be required.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R J Maile', written over a horizontal line.

R J Maile BSc FRICS
Inspector

APPEARANCES

FOR THE APPELLANT

Mr P W C Carter FRTPI Appellant's Agent.

FOR THE LOCAL PLANNING AUTHORITY

Miss Teresa Mattick Planning Officer.
BA(Hons) DipTP MRTPI

DOCUMENTS

- Document 1 List of persons attending the hearing.
Document 2 Council's letter of notification of the hearing and the list of persons notified.
Document 3 Additional conditions proposed by the Local Planning Authority.
Document 4 Copy of planning permission, Officer's Report and approved plans relating to the development of Keepers Cottage, Half Moon Lane, Pepperstock.

PLANS

- Plan 1 Application plan: Drawing No PCA/PJ/981 dated November 1998.
Plans 2-5 Detailed drawings by Potton Limited, Nos: 98-318 Revision A to a scale of 1:100.



PLANNING

Civic Centre Marlowes
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PETER CARTER ASSOCIATES
1 WATERLOO COTTAGE
TEMPSFORD ROAD
EVERTON
SANDY BEDS
SG19 2JW

MR P JOHNSON
BIRCHIN GROVE
PEPSAL END LANE
PEPPERSTOCK, MARKYATE
HERTS
HP2

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/02004/98/FUL

BIRCHIN GROVE, PEPSAL END LANE, PEPPERSTOCK, MARKYATE, HERTS,
HP2
REPLACEMENT OF MOBILE HOME WITH PERMANENT DWELLING

Your application for full planning permission dated 24 November 1998 and received on 25 November 1998 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 13 January 1999

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/02004/98/FUL

Date of Decision: 13 January 1999

1. The application site is located in the Green Belt in the adopted Hertfordshire Structure Plan Review 1991 - 2011 and the Dacorum Borough Local Plan 1991 - 2011 Deposit Draft. Within the Green Belt, planning permission will only be granted for replacement dwellings provided the criteria referred to in Policies 20 and 21 of the Dacorum Borough Local Plan and Policies 23 and 24 of the Dacorum Borough Local Plan 1991 - 2011 Deposit Draft, together with national advice contained in Planning Policy Guidance Note 2, are met. Due to its size, location and visual impact, the proposed dwelling would not accord with the requirements of these policies; the proposal therefore represents inappropriate development in respect of which there is a presumption that planning permission will be refused unless there are very special circumstances that indicate otherwise. No such very special circumstances have been advanced and the proposal is therefore contrary to national and local planning policies for the area.