



The Planning Inspectorate

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PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						
Ref.						Ack.
DsP	T.C.P.M.	D.P.	D.C.	B.C.	Admin.	File
Received			4 JAN 1993			
Comments						

Your reference
MDC/DEP/5/14168
Our reference
APP/C/92/A1910/621023/P6
Date 22 DEC 92

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPLICATION FOR COSTS BY MR D A DONDALDSON

- I refer to your client's application for an award of costs against Dacorum Borough Council which was made at the inquiry held at the Council Offices, Hemel Hempstead on 2 December 1992. The inquiry was in connection with an appeal against an enforcement notice alleging the change of use of land at Hatches Croft, Bradden Lane, Gaddesden Row to use for the stationing of a mobile home. A copy of my appeal decision letter is enclosed.
- In support of your client's application it was stated that the inquiry should not have been necessary as the planning application submitted in January 1992 to retain the mobile home contained sufficient information for the Council to take a reasonable view of your client's prospects. They had previously granted temporary permission on the basis of a farming enterprise on the site no different from that which the County Council's land agent found on his visit in March 1992. The Council were informed of your client's intentions to set up a poultry business, together with advice from ADAS as to the likely gross margin, and advice from the land agent that there was no reason why it should not be sustainable in the long term. The Council could at least have given a temporary permission but instead they refused it. The application was in accordance with the Development Plan so the presumption was in favour of permission being granted. There was clearly no detriment to the Area of Outstanding Natural Beauty. The whole costs of the inquiry were claimed.
- In response, the Council said that they had not acted unreasonably, but had demonstrated in their evidence to the inquiry that their decision to take enforcement action was based firmly on policy. Development in the rural area and especially in the AONB must be strictly controlled and satisfy certain tests. The Council had not had convincing evidence in the January 1992 application that the business was sustainable. The notes from ADAS were standard ones, not tailored to the particular circumstances of this site. The appellant had made no contact with John Bowler, one of the main contractors for free range eggs. There were also different circumstances from Mrs Ford's application in 1989. The proposed business was different and there had been changes in Government advice. Further information from the appellant had trickled in late, such as the list of firms contacted, sent in on the date of the committee meeting, and the further information from ADAS, dated October 1992.

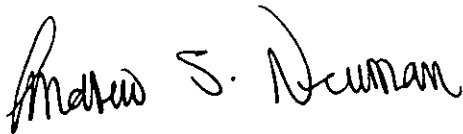
4. The application for costs falls to be determined in accordance with the advice contained in Circular 2/87 and all the relevant circumstances of the appeal, irrespective of its outcome, and costs may be awarded only against a party which has behaved unreasonably.

5. I have shown in my main letter why I do not consider that a permanent permission should be granted for this mobile home. Much of the evidence on the basis of which I have decided that a temporary permission could be granted was only provided at a late stage, such as the ADAS note of October 1992, and the setting up of the mobile chicken houses and runs on the site. Even then, the decision that I have reached is very much one derived from a balance of the merits and demerits of your client's case. In the light of the advice contained in PPG7, the Council were right to be cautious about granting a third successive temporary permission for this mobile home. On the evidence which was before them, I do not consider that they acted unreasonably either in deciding to take enforcement action or in contesting your client's appeal. I conclude that your client's application for an award of costs is not justified.

FORMAL DECISION

6. For the above reasons and in exercise of the powers transferred to me, I hereby refuse the application by Mr D A Donaldson for an award of costs against Dacorum Borough Council.

I am Gentlemen
Your obedient Servant



A S NEWMAN BA MA DipTP MRTPI
Inspector