

1340/76

H.C.C.
Code No. W/3243/69

L.A.
Ref. No. 7014

ADMINISTRATIVE COUNTY OF HERTFORD

The Council of the BOROUGH OF
~~URBAN DISTRICT OF~~
RURAL DISTRICT OF Hemel Hempstead.

TOWN & COUNTRY PLANNING ACT, 1962

To
Mr. R. Keen,
26, Avenue Road,
St. Albans.

Use of land for the erection of 8 dwellings
at Trowley Bottom, Flamstead, Herts.
(Part Parcel 276 on OS. HERTS. XXVI.8 & XXVII.5)

Brief
description
and location
of proposed
development.

In pursuance of their delegated powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council on behalf of the Local Planning Authority hereby refuse the development proposed by you in your application dated 17/11/69 and received with sufficient particulars on 24/11/69 and shewn on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

- 1. The site is shown on the First Review to the County Development Plan as being within a proposed extension to the Metropolitan Green Belt. Whilst the Minister of Housing and Local Government has not yet given his formal decision on the Local Planning Authority's First Review proposals as a whole, he has stated that he is not proposing to approve the extension to the Metropolitan Green Belt shown by the Local Planning Authority on its First Review submission at this stage. In connection with areas outside the approved Metropolitan Green Belt, the Minister states:- "the Authority will, as a general rule, permit in these areas only such development as would be appropriate in the neighbouring Green Belt." Within the existing and proposed Green Belt it is the policy of the Local Planning Authority not to permit development unless it is required for agricultural or other essential purposes. No such need has been proved in this case.
- 2. The proposal involves the construction of new accessways with a narrow County Road where there are no footpaths. It is considered that the increase in vehicular traffic generated by the development would aggravate the present unsatisfactory highway conditions in this part of Trowley Bottom with regard to (a) the safety and free flow of traffic on the County Road due to slowing and manoeuvring vehicles, and (b) the additional hazard to pedestrians due to the lack of footpaths in the locality.

Dated 3rd day of February 1970

P. P. W. A. J. Stamp
Clerk/Surveyor of the Council.

NOTE.

(1) If the applicant wishes to have an explanation of the reasons for this refusal it will be given on request and a meeting arranged if necessary.

(2) If the Applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may by notice served within one month of receipt of this notice, appeal to the Minister of Housing and Local Government in accordance with Section 23 of the Town and Country Planning Act, 1962. The Minister has power to allow a longer period for the giving of a Notice of Appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed development are in progress. The Minister is not, however, required to entertain such an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the provision of Section 17(1), 18(1) and 38 of the Act and of the Development Order and to any directions given under the Order.

(3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Minister of Housing and Local Government, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the County District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with Section 129 of the Town and Country Planning Act, 1962.

(4) In certain circumstances, a claim may be made against the local planning authority or the Minister of Housing and Local Government for compensation, where permission is refused, or granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 123 and Part VI of the Town and Country Planning Act, 1962.

in any opinion be infinitely greater.

(ii) Guidance to developers and local planning authorities on development "agricultural dwellings" is given in Development Control Policy Note no 4 and circular 24/73.

Paragraphs 10 and 11 of Policy Note no 4 state that the erection of agricultural dwellings does not represent permitted development:-

"This still....

(B)

So far as these points are concerned it is relevant to note that:-

(a) Two dwellings remain with the holding, both in close proximity to the complex of farm buildings and thereby able to offer security to property and assistance to stock in the event of emergency


(b) ~~The dwelling is stated to be required to~~ In the letter accompanying the application it is stated that the dwelling is required to enable an additional worker to be attracted. It is understood that a full-time worker would be required to replace ~~the~~ a woman member of staff ~~and~~ the cater for expansion of agricultural activities. The applicant considered that he is unlikely to attract a suitable employee unless he is able to offer accommodation. In any circumstances it would be inadvisable for a LPA to grant ~~it~~ for a new dwelling in advance of the circumstances it is advanced as justification. The validity of the appellant's argument is ~~not~~ however ~~is~~ accepted in principle. The point of disagreement is in terms of location. Trowley Bottom Farm is not isolated and inaccessible. ~~The farmhouse~~ and farm buildings immediately adjoin Trowley Bottom where, periodic ~~phases~~ change hands, and is conveniently situated in relation to the much larger village of ~~the~~ ~~stead~~ where houses may also be ~~found~~. The farm is a substantial ~~part~~ of ~~the~~ ~~land~~

necessary, rather than merely convenient, for a dwelling to be erected on the appeal site and he considered that insufficient reason had been shown at the present time to justify the erection of a dwelling on the farm in advance of the establishment of the pig breeding enterprise and thus override the general presumption against development where green belt policies apply: the Inspector dismissed the appeal. Having regard to all the above factors no reason is seen to disagree either with the Inspector's comment - that although, having consulted the County Land Agent, it would have been prudent to await his reply, it is unlikely that this would have led to a different decision - or with his considered opinion that the wording of the reason for refusal was quite proper since the council had regard to the provisions of the development plan so far as they were material to the application. In the circumstances it is not considered that the Council acted unreasonably in dealing with your client's planning application or in refusing it for the reasons they did. It has therefore been decided that an award of costs against the Council would not be justified and the application made on behalf of your client is accordingly refused.

7. A copy of this letter has been sent to the Assistant Secretary and Solicitor of the Dacorum District Council.

I am Gentlemen
Your obedient Servant

M BROWN



Department of the Environment
Becket House Lambeth Palace Road London SE1 7ER

Telephone 01-928 7855 ext 400

Messrs Harland and Son,
Chartered Surveyors
69 High Street
BARNET
Herts
EN5 5UR

Your reference

WFC/APK/6334

Our reference

T/APP/5252/A/77/403/G5

Date

27 JUL 1977

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY M F SPRAGG ESQ
APPLICATION NO:- 1340/76D

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council, to refuse outline planning permission for the erection of a detached bungalow for an agricultural worker on land at Trowley Bottom Farm, Flamstead, near Markyate, Hertfordshire. I held a local inquiry into the appeal on 23 June 1977.
2. From my inspection of the site and its surroundings and from my consideration of the representations made it is my view that the decision in this case turns on whether sufficient reason has been shown to override the general presumption against development in an area where green belt policies apply.
3. The appeal site lies within an area of undulating countryside located immediately to the south of a substantial group of agricultural buildings which constitute Trowley Bottom Farm. The farmhouse and adjacent cottages are the northernmost buildings of this group and together they delineate the southern edge of Trowley Bottom; a small settlement which is but an extension of Flamstead village. The appeal site occupies a slightly elevated position in relation to the farm complex and is some 200-250 ft to the south of it, the site and farm buildings are separated by generally open land on which there is a newly constructed tennis court. The site has a road frontage of some 350 ft at the junction of the country lanes, it is otherwise bordered by open land in agricultural use.
4. It is my opinion that the appeal site, itself part of an agricultural unit, merges totally with and forms part of the attractive, open and substantially unspoilt area of countryside outside the settlement of Trowley Bottom. I have considered whether the appeal site has been appropriately included within an area where green belt policies apply, but I find no reason to question its inclusion for the time being, pending a decision on the green belt proposals as a whole.
5. I note that your client acquired the farmhouse and one of the adjacent cottages when he purchased the holding in 1970. At that time there were some 30 milking cows with a similar number of followers on 85 acres of land. Since 1970 the total area has been increased to approximately 200 acres and there are now some 90 cows and about 50 followers; there has also been considerable investment in fixed equipment. Throughout this period the farm has been worked by your client and his farm manager with some additional part-time assistance. Neither the current

APPEAL

viability of the total enterprise nor the immediate need for an additional skilled worker were disputed at the inquiry. I see no reason to question these matters and I do readily accept that the existing residential accommodation at the farm is fully occupied at the present time; however I am mindful of the technical appraisal provided by the Ministry of Agriculture, Fisheries and Food wherein it states, inter alia, "It is considered that two persons, being the farmer or person in a managerial capacity, and the herdsman, should be housed in reasonably close proximity of the farm buildings to deal with calvings and other emergencies that might arise outside normal working hours. The third person, it is felt, could live off the farm".

6. From your client's evidence I conclude that he is a working farmer fully capable of dealing with calvings and other emergencies. Furthermore, I note that his manager lives in the nearby farm cottages and is, therefore, also in a position to deal with such emergencies that might occur outside normal working hours. Having regard to this evidence and on consideration of the location of the farm in relation to Trowley Bottom and Flamstead, I am not persuaded that it is necessary, rather than merely convenient, for a dwelling to be erected on the appeal site.

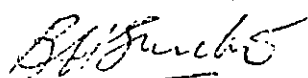
7. Turning to the future situation, there can be little doubt that if the proposed pig breeding unit were to be successfully established at Trowley Bottom Farm it would demand the full-time services of an experienced piggan who, of necessity, should be housed on or near the farm. However, I note that the buildings needed to accommodate this unit do not exist and would be of a size requiring planning permission. I appreciate your client's intention of inviting a future employee to assist in planning the proposed pig breeding unit but this does not, in my view, preclude the submission of a planning application at this stage. However, not only has planning permission yet to be applied for but there is also an absence of any evidence of firm intent by way of financial commitment to develop the enterprise. Furthermore, despite the council's offer to investigate the possibility of making housing accommodation available for the additional worker, there is little evidence to show that your client has made genuine efforts to obtain such accommodation in Trowley Bottom or Flamstead. In my opinion, therefore, insufficient reason has been shown in this case at the present time to justify the creation of a dwelling on the farm in advance of the establishment of the pig breeding enterprise and thus override the general presumption against development on the appeal site where green belt policies apply.

8. I have reported your client's application for costs to the Secretary of State.

9. I have taken into account all the other matters raised in the representations, including the report of the County Land Agent and Valuer and the views of the parish council, but I am of the opinion that they are insufficient to outweigh the considerations that have led me to my decision.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen
Your obedient Servant



B H SMITH DipTP MRTP I
Inspector



Department of the Environment
2 Marsham Street London SW1P 3EB

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69 High Street
Barnet
Herts
EN5 5UR

Your reference
WFC/AJ/6334
Our reference
APP/5252/A/77/408 (PLUP1F)
Date

19 June 1978

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36
LAND AT TROWLEY BOTTOM FARM, FLAMSTEAD, NEAR MARKYATE
APPEAL BY MR M F SPRAGG

1. I am directed by the Secretary of State for the Environment to refer to the Inspector's letter of 27 July 1977 notifying his decision on the above-mentioned appeal against refusal of the Dacorum District Council to grant outline planning permission for the erection of a detached bungalow for an agricultural worker, and to the application for an award of costs made on behalf of your client, Mr M F Spragg, at the local inquiry held on 28 June 1977 and in subsequent correspondence.
2. The submissions made by your client in support of his application for costs, the reply by the Council, and the Inspector's comments on the matter are set out in the Inspector's costs report, a copy of which was sent to the parties on 23 August 1977.
3. You subsequently submitted that although the Council had maintained that they would have been criticised had they delayed their determination of the planning application until the agricultural appraisal was available, the planning witness at the inquiry had agreed that the request for a further extension of time in which to give a planning decision had been agreed to by your client. That witness had also agreed that no member of the Planning Committee - nor anyone from the Council with agricultural qualifications - had visited the farm before the planning decision was made, neither was your client approached for further details of his plans. You contended that the Inspector had indicated in his decision letter that planning permission should be given for the proposed bungalow once details of the proposals for the pig rearing unit were known and implemented, and that the Council should therefore have made a further visit and carried out further consultation with your client and his advisers before making their decision. You further submitted that whilst the Approved Development Plan stated that it was essential to retain and protect the existing rural character of the area, it did not state that permission for development would be refused unless it was essential in connection with agricultural or other special purposes. By misquoting the word "essential" in the notice of refusal, therefore, your client could well have been prejudiced against exercising his right of appeal.

4. In reply to these additional submissions, the Council, while agreeing that the planning witness had confirmed that the statutory period for the decision had been extended, maintained that they would have been open to criticism if they had delayed their determination of the application. The planning witness had not, however, agreed that no member of the Committee had visited the farm. While it was correct that no further visit was made prior to the decision, it did not follow that there should have been such a visit. The Council denied that the Inspector's decision indicated that planning permission should be granted for the proposed bungalow once details of the pig rearing unit were known and implemented; moreover, since the Council had not attempted to quote the Approved Development Plan in the decision notice, they denied that it had been misquoted. With regard to the reference to paragraph 25 of Circular 9/58 the Council were unaware of any way in which your client was uncertain of the case which he had to meet; the decision notice informed him adequately and any further explanation would have been given on request.

5. In planning appeals the parties are normally expected to meet their own expenses, and costs are awarded only in exceptional circumstances on grounds of 'unreasonable behaviour'. Accordingly, the application for costs has been considered in the light of paragraph 9 of Ministry of Housing and Local Government Circular 73/65, the Inspector's appeal decision letter and separate costs report, the correspondence submitted by you with the Notice of Appeal (in which you state your intention to apply for costs), the subsequent written representations made by you on behalf of your client and by the Dacorum District Council, and all the relevant circumstances. Reference of the case to the Commissioner for Local Administration is not a circumstance relevant to the Secretary of State's consideration of your client's application for costs, and accordingly no account has been ^{taken} of the references to the Commissioner in the before-mentioned papers.

6. It is noted from the decision letter of 27 June 1977 that the Inspector considered the decision in this case turned upon whether sufficient reason had been shown to override the general presumption against development in an area where green belt policies apply. The Council, in refusing permission, had considered that insufficient justification for a third dwelling on the site had been proved to warrant a departure from the principle applicable to development on land subject to green belt policies. It is noted that although your client had agreed to the extension of the statutory period for giving a decision on the planning application to enable the Council to obtain an agricultural appraisal from the County Land Agent, this appraisal had not been received by the time the planning committee met to consider the application; and that while the committee were aware that this appraisal had not been received, it was considered that clearly they did not feel any additional matters that might be raised by the Land Agent would justify overriding the presumption against development: furthermore, the committee were concerned that any deferment of the application would be likely to lead to criticism. Following the inquiry, and having considered all the matters raised, including the report of the County Land Agent and Valuer, the views of the parish council and the technical appraisal provided by the Ministry of Agriculture, Fisheries and Food, the Inspector was not persuaded that it was

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HERTFORDSHIRE COUNTY COUNCIL

To the Surveyor of the

H.C.C. Code No.	W/3243/69
L.A. Ref. No.	7014

Hemel Hempstead RDC

Date 10th December 1969

TOWN & COUNTRY PLANNING ACT, 1962

8 det. houses with garages
at Trowley Bottom, Flamstead, Nr. Markyate

Brief description and location of proposed development.

- a) The above application dated 17th November 1969 is deemed as received with sufficient particulars on the 24th November 1969 (date) and the Statutory Period will expire on the 23rd January 1970 (date). The official notice form I.W.F.3/~~I.W.F.3A~~ may now be sent to the Applicant.
- (b) ^{sent 17/12/69} The above application dated does not contain sufficient particulars. Will you please obtain the following further information:—

(c) I consider that this application or proposal falls within the terms of the Appendix to the Schedule of the Delegation Agreement Article 2 Ha; I shall make a recommendation in due course.

(d) I consider the application or proposal falls to be dealt with by your Council under the Delegation Agreement.

As requested, I will make a recommendation in due course.*

[Handwritten signature]

Divisional Planning Officer,

West Division.

* Delete as necessary

It is relevant to note that at the present time two properties in
Trowley Bottom appear to be for sale. ^{At present} This was made by
~~the~~ some 12 months ago just before the present application was
made to inform the Council's Planning Committee of the circumstances
on ~~the~~ Trowley Bottom Farm in order to ascertain whether it would
be possible to make accommodation available ~~there~~ for an
additional worker.

(c) I could not accept that a third building is essential on the
farm. This opinion is supported by the approval of the
Min of Ag. where in the last paragraph it is stated that

(c)

The site selected is particularly objectionable for the reasons
given earlier. It was not, as implied in the letter accompanying
the application, suggested by the officer who met the applicant and
his agent before submission of the application. Indeed, ~~the officer~~
~~expressed~~ after listening to the applicants proposals and the reasons
for them, and in the light of his knowledge of the area, the
history and the policies of the LPA as expressed by its par-
ticipants in the locality, similar applications in the District
and the policy of the S of S as expressed through appeal
decisions, posing just as and similar, he expressed the opinion
that the additional workers should be housed in the village and
offered to explain the possibility ~~of~~ of assistance by the Planning
Office. When asked the "least unacceptable" thing ~~he~~ should ~~do~~
~~with~~ ~~the~~ ~~site~~ ~~made~~ an application for h.p. be made, the officer
expressed the opinion that it should avoid a road frontage location
and should be close to the existing farm buildings.
Whilst the farm and farmhouse have not been expanded in this
instance, ~~some~~ ~~some~~ these dwellings were separated from the farm at