



Appeal Decision

Hearing held on 07 February 2001

by D E Morden MRTPI

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
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Tollgate House
Houlton Street
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Date

- 7 MAR 2001

Appeal Ref: APP/L2820/C/00/1051960

Hall View Stables, Dingley Lane, Dingley, Northamptonshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs N Torbell against the decision of Kettering Borough Council to issue an enforcement notice.
- The Council's reference is EN/00/0183.
- The notice is dated 7 September 2000.
- The breach of planning control as alleged in the notice is the change of use of the land from use for the keeping of horses to a mixed use, namely the keeping of horses and for the siting of two caravans for residential occupation together with an associated storage container and equipment.
- The requirements of the notice are to cease the use of the land as a residential caravan site; remove all caravans from the land and remove the storage container and all equipment associated with the residential use of the site from the land.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variations as set out in the formal decision at paragraphs 13 and 14 below.

The appeal on Ground (c)

1. The Council's records only showed planning permission for the use of the land for keeping horses and a temporary permission for the block of stables (granted in 1989 and 1995 respectively). The appellant stated that she had been told by a man (now aged 85) that he recalled a tin dwelling on the land at some time in the past but she was not able to give any further information on the matter. It is for the appellant to show that there has been no breach of planning control but in this instance she could produce no documentary nor any other evidence to support her assertion that there had been a dwelling on this site in the past and that permission was not, therefore, needed to use the land for residential purposes.
2. In the absence of any such evidence to support the appellant's case the appeal on ground (c) accordingly fails.

The appeal on Ground (a)

Development Plan

3. The Development Plan for the purposes of Section 54A of the Act is the Replacement Northamptonshire County Structure Plan adopted in February 1989 and the Kettering Borough Local Plan adopted in January 1995. The replacement Draft County Structure Plan has been through its examination in public and the proposed modifications were reported to the relevant Council committee in December 2000. It is expected that the

revised plan will be adopted within the next few months and, as an emerging plan close to adoption, it is worthy of due weight in determining this appeal.

4. Within the plans, Policy RES8 states that permission will not normally be given for residential development unless it is essential for the purposes of agriculture or forestry or the re-use of a redundant building. Policy ENV4 states that the site is within the Welland Valley Special Landscape Area wherein the policy is similarly restrictive. These policies are generally reiterated in the revised County Structure Plan which is still at draft stage. There are also similar, more detailed policies, in the Kettering Borough Local Plan which seek to preserve the openness and beauty of the countryside in such areas.

Main Issue

5. I consider that the main issue in this appeal, having regard to the prevailing policies, is whether the development materially harms the rural character and appearance of the area.

Reasons

6. On this ground the appellant accepted that her use was not one that satisfied the policies in the development plan and stated that her only justification for living on the site was security for her horses. She argued that there had been theft in the area and attacks on horses in the last 12 months and it was unsafe to leave them. Also the lane was not unspoilt now and the development resulted in little difference to the appearance of the landscape in the area.
7. The appeal site lies in a prominent, high position in the area and is easily seen when approaching from the north along the lane and when travelling along the main Harborough Road to the south west. The caravans are on a fairly steep slope and in my opinion are extremely intrusive in the landscape which is one of panoramic views over fairly long distances. There is also a large metal storage container sited in a very open position at the site which is intrusive. I acknowledge that the hedge along the lane gives some screening from those travelling along the lane but it is very sparse in the winter and provides no visual screening to the south or more particularly the north and west.
8. I acknowledge the appellant's desire to provide close supervision for her animals but there are other ways of providing security and there is always the slight risk of occasional theft where animals or possessions are not immediately looked over through having dwellings close by. The objectives of the policies in this instance are totally against the development and in such cases I do not consider that an appellant's personal circumstances are sufficient to outweigh them. Taking all these factors into account I conclude that the development is materially harmful to the character and appearance of this part of the Welland Valley Special Landscape Area and should not be allowed. The appeal on ground (a) accordingly fails.

The appeal on ground (f)

9. On this ground the appellant could not suggest any lesser steps that would ameliorate the harm to amenity caused by the development. I agree with the Council that in cases like this it is really a matter of ceasing the use and removing the offending development from the land and there is no lesser step that could be suggested in place of what is set out in the notice. The appeal on ground (f) accordingly fails.

The appeal on ground (g)

10. On this ground whilst I acknowledge that the Council may be able to find alternative accommodation for the appellant and her family within 2 months, I recognise that this is the family's home, the daughter goes to the local school and there are some horses at the site that are due to foal within a couple of months. The Council could not confirm that any alternative accommodation found that quickly would necessarily be near the appeal site and the horses. In these circumstances I consider it would be reasonable to allow sufficient time for the appellant to find some alternative site where the horses can be within a reasonable travelling distance even if not very close by as the appellant wishes.
11. It would also be reasonable not to interrupt her daughter's school year and a move to school in a different area, should that prove necessary, would be more appropriately made in September when a new school year starts. In these circumstance I consider 9 months would be a more reasonable compliance period and I shall vary the notice accordingly. To that limited extent the appeal succeeds.
12. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed. I shall uphold the notice with variations and refuse to grant planning permission on the deemed application.

Formal Decision

13. In exercise of the powers transferred to me, I direct that the enforcement notice be varied by substituting the words 'nine months' for the words 'two months' where they appear in paragraph 5 of the notice.
14. Subject to this variation I dismiss the appeal, uphold the notice and refuse planning permission on the application deemed to have been made under section 177(5) of the Act as amended.

Information

15. Particulars of the right of appeal against this decision to the High Court are enclosed for those concerned.



INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs N Torbell
Mr N Torbell

Appellant
Appellant's husband

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Shields
Mr M Harvey

Snr Monitoring & Enforcement Officer, Kettering BC
Monitoring & Enforcement Officer, Kettering BC

DOCUMENTS

- Document 1 List of persons present at the Hearing.
- Document 2 Council's letter of notification and list of addressees
- Document 3 Correspondence between the appellant and the Council
- Document 4 Planning history in the Dingley/Sutton Bassett area

PLANS

- Plan A Enforcement notice plan