



# The Planning Inspectorate

*An Executive Agency in the Department of the Environment and the Welsh Office*

Room 1404  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

Direct Line 0117-987-8927  
Switchboard 0117-987-8000  
Fax No 0117-987-8769  
GTN 1374-

*Caproo as usual*  
EN.95.226

Mr Daniel B G Britton  
21 Stubbs Lane  
Warkton Spinney  
KETTERING  
Northants  
NN15 5ET

Council Reference:

MAS/EN.226

Our Reference:

APP/C/95/L2820/640728

Date: 5 JUN 1996

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6  
PLANNING AND COMPENSATION ACT 1991  
LAND COMPRISING FIELD NUMBER NG9063 ADJACENT TO EAST-BOUND  
CARRIAGEWAY OF A14 TRUNK ROAD AT CRANFORD**

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Kettering Borough Council concerning the above mentioned land. I have considered the written representations made by you and the Council and also those made by Cranford Parish Council and Burton Latimer Town Council. I made an unaccompanied inspection of the site and surrounding area on 17 May 1996.

## THE NOTICE

2. (1) The notice was issued on 12 October 1995.
- (2) The breach of planning control as alleged in the notice is the making of a material change of use of the land from agricultural land to agricultural land and the siting of a mobile catering trailer (Use Class A3).
- (3) The requirement of the notice is to stop using the land for the siting of a mobile catering trailer.
- (4) The period for compliance with this requirement is 3 months.

## GROUND OF APPEAL

3. Your appeal is proceeding on the sole ground that planning permission ought to be granted, as set out in section 174(2)(a) of the 1990 Act and amended by the Planning and Compensation Act 1991. Since you have paid the appropriate fees, the deemed application under section 177(5) of the Act also falls to be considered.



100%  
RECYCLED PAPER

## **PRELIMINARY MATTERS**

4. As part of your grounds of appeal you allege that you were advised by officers of the Council that once your trailer had been passed to sell foodstuffs there was nothing else, as far as the Council were concerned, that you were required to do. In the circumstances, I have carefully considered whether this advice legally estops the Council from taking enforcement action against the siting of your trailer.

5. The Courts have previously held that the statutory responsibilities of a planning authority should not normally be fettered by the actions of their officers. However, where a representation has been made in writing by an officer of the Council and the person receiving it has reason to believe the officer had ostensible authority to bind the Council, the Courts have accepted that the Council can be estopped from taking further action.

6. In this case, the Council accept that incorrect advice may have been given but point out that the advice was from the Environmental Health Manager and not from the Development Control Department. More importantly, the advice appears to have been given verbally.

7. While, you may have had no reason to doubt the advice, I am not satisfied that there was any basis for you to assume the officer had ostensible authority to bind the Council in respect of planning matters. The mere fact that he was an officer of the Council is not in my view sufficient grounds for such a belief, especially as the officer in question was not part of the planning department. In the circumstances, I am not satisfied the previous advice you were given is sufficient to legally bar the Council from taking enforcement action in this case.

8. I understand your sense of grievance in respect of the misleading advice you were given, but this does not alter the legal position. Nevertheless, I hope the Council will take greater care to ensure that its officers give correct advice in the future.

## **THE APPEAL UNDER GROUND (a) AND THE DEEMED APPLICATION**

### **Policy**

9. Section 54A of the Town and Country Planning Act 1990 requires that I determine the appeal in accordance with the policies of the Development Plan unless material considerations indicate otherwise. The Development Plan in this instance consists of the Northamptonshire County Structure Plan (NCSP) and the Local Plan for Kettering Borough (LPKB).

10. The NCSP contains a policy (TRANS 15) on the provision of service areas. This makes clear that provision will be made for a limited number of high standard service areas on strategic routes adjacent to towns having regard to the following criteria:-

- A the needs of Heavy Goods Vehicles (HGV's) and their drivers
- B the needs arising from tourists and the travelling public
- C the protection and conservation of the environment
- D the safe and efficient flow of traffic.

11. The policies of the LPKB, particularly policy 7, seek to generally resist new development within the open countryside unless it is provided for in the plan. Policy 99 makes clear that new catering establishments in the open countryside will normally only be allowed where they involve the re-use of existing buildings. In addition, policies 84 and 85 seek to ensure satisfactory standards in respect of highway considerations and the provision of car parking, servicing and manoeuvring arrangements. However, although a number of service areas are shown on the proposals map, no policy directly relating to such areas has been brought to my attention.

### **Issues**

12. I consider there are three main issues in this case. These are firstly the effect of the siting of the catering trailer on the surrounding countryside; secondly its impact on highway safety; and finally whether the need for additional service facilities for HGV drivers using the A14 is sufficient to outweigh any harm that the development causes.

### **Effect on the Countryside**

13. Your catering trailer is sited in an open field on the north side of the A14, well outside the village of Cranford. There are no other buildings or structures within the immediate vicinity. No parking or any other facilities are provided and the site is not landscaped. Customers are served over the highway fence.

14. Although the trailer is quite small it is clearly visible from the A14. Although viewed from the west it is seen against the rising land, it is prominent from the east as the land drops away towards Kettering. I consider, therefore, the trailer forms an intrusive feature within an area of open countryside, because of its isolated location and visual prominence. In my opinion, the presence of large numbers of HGV's which the trailer attracts reinforce this visual intrusion. Consequently, I find the development is contrary to the aims of local policies which seek to safeguard the open countryside from inappropriate development.

15. I accept policy TRANS 15 of the NCSP allows for the provision of service areas. However, this limits such facilities to those of "high standard". While the quality of service you provide may be good, I am not satisfied from what I saw during my site inspection that your trailer falls within this description.

### **Highway Safety**

16. No parking provision is made within the land covered by the enforcement notice. Instead customers are expected to park in the adjacent lay-by. However, this is quite small and judging by the degree of damage that has occurred to the verges is obviously congested at times. Indeed it appears that wooden bollards have had to be erected to restrict parking on the verges.

17. In my view the lay-by was not designed to accommodate the number of vehicles that are currently using it. I consider the heavy use of this particular lay-by is due largely to the presence of the catering trailer. My view is strengthened by the fact that none of the other lay-bys I saw on this stretch of the A14 appear to have suffered the same extensive verge damage.

18. I am concerned that the congestion could result in the lay-by overflowing at times. It is clear that lorries have on occasion been forced to double park. In my opinion, this may lead to drivers having to make dangerous manoeuvres on leaving or rejoining the A14. While you cannot be held directly responsible for the actions of drivers, I believe the congestion arising from the presence of the catering trailer is likely to significantly increase the risk of such manoeuvres. I consider, therefore, that the siting of the trailer adjacent to this lay-by does have a detrimental affect on highway safety.

### **Benefits of the business**

19. In reaching my conclusions in this case I have taken careful account of your arguments about the limited service provision for HGV drivers along this section of the A14. I saw there are currently few facilities at Rothwell for HGV drivers. However, the services provided at the Shell and Mobil garages at Thrapston and Kettering clearly do cater for HGV's, and both were well used on the day of my visit. Nevertheless, since they only provide parking spaces for around 5/6 vehicles each, I accept there is probably a need for further facilities for HGV drivers along this stretch of the A14, bearing in mind the legal restrictions on the length of time an HGV driver can drive without taking a break.

20. Judging by the letters you have supplied and the extracts from "Truck & Driver", your trailer clearly provides a much appreciated service. I have no doubt, therefore, that it fills an important gap in the existing provision along the trunk road, particularly as it provides a service at a considerably lower cost than some of the more permanent facilities. However, I am not satisfied this is sufficient reason to override the cogent planning objections to your development.

21. In my view, it is important that roadside services make proper provision for safe parking and are carefully designed to ensure they are not unduly intrusive in the rural landscape. I consider your development fails to meet these criteria. Consequently, I am not satisfied that it complies with the objectives of policy TRANS 15 of the NCSP.

### **Other matters**

22. I appreciate that you obtained a government grant from the Training and Enterprise Council and your parents have invested a significant sum in the business which is now well established. I can assure you that I have taken full account of your personal circumstances and the government's encouragement for the setting up of small businesses. However, I am not persuaded these factors justify allowing your continued trading from this site in the light of the demonstrable harm I believe it causes.

23. I understand your complaint about the length of time the Council have taken to act in this case and their failure to find you another site as they advised your MP they would try to. Indeed, I have considerable sympathy with your predicament but I consider I have no alternative other than to dismiss your appeal in view of my above findings.

24. While I have judged your case on its merits, I have also noted the Highways Agency's concern about the precedent it might set. In the light of the large number of lay-bys on this section of the A14 I can understand their concern. If I was to allow your proposal, I believe it would make it more difficult for the Council to prevent similar developments taking place adjacent

to other lay-bys along the A14. In view of the busy nature of this trunk road I am concerned this could cause considerable harm to highway safety. This strengthens my view that your appeal should be rejected.

25. The Highways Agency have suggested that I reduce the period for compliance to one month rather than three. However, as this would make the notice more onerous it is beyond my powers to make such an amendment. Even if it had been within my powers I see no justification for such action.

26. I have taken into account all other matters raised, including the concerns about litter, but find none of sufficient weight to alter my conclusions on the main issues.

### Conclusions

27. I conclude that the trailer forms an intrusive feature in the countryside. It attracts large numbers of vehicles to the adjacent lay-by. The consequent congestion has a detrimental impact on highway safety. While I accept there is probably a need for further service provision for HGV drivers on this section of the A14, I am not satisfied that this is sufficient to outweigh the planning objections. Consequently, the appeal under ground (a) fails and I shall not grant planning permission on the deemed application under section 177(5) of the Act.

### FORMAL DECISION

28. For the above reasons, and in exercise of the powers transferred to me, I dismiss your appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under S177(5) of the amended Act.

### RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully



PETER F BURLEY MA(Oxon) BPhil DipTP ALI MRTPI  
Inspector

ENC