



# The Planning Inspectorate

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NORTHANTS, NN15 7QX

Your Ref:

EN/97/0306

Our Ref:

APP/L28207/C/99/1019686

14 September 1999

Dear Madam

TOWN & COUNTRY PLANNING ACT 1990  
APPEAL BY A DE RETANA  
SITE AT WYCOMBE HOUSE, LODBE LANE, ROTHWELL ROAD,  
DESBOROUGH, NORTHAMPTONSHIRE

I enclose a copy of our Inspector's decision letter.

Yours faithfully

*P. D. Combs*

pp Mrs M Hearle

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# Appeal Decision

Hearing held on Tuesday, August 3<sup>rd</sup>, 1999

by **B C Wilkinson** BEng(Hons) DipTP MRTPI

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

The Planning Inspectorate  
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14 SEP 1999

## Appeal Reference : T/APP/L2820/C/99/1019686

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice.
- The appeal is brought by A de Retana against Kettering Borough Council.
- The site is located at Wycombe House, Lodge Lane, Rothwell Rd, Desborough.
- The Council's reference is EN/97/0306
- The notice was issued on 22<sup>nd</sup> February 1999
- The breach of planning control as alleged in the notice is the making of an unauthorised material change of use from an agricultural building to a dwelling house
- The requirements of the notice and the periods for compliance with them are set out in Schedule I to this decision
- The appeal was made on the ground set out in section 174(2) (a) and (f) of the 1990 Act

**Decision:** The enforcement notice is varied in terms set out in the attached Schedule II and subject thereto it is upheld and the appeal is dismissed.

## The Appeal Site and Relevant Planning History

1. The appeal premises are located within open country to the south of Desborough. They include a house, outbuildings, a garden and a drive leading eastwards to Rothwell Road. The house is in clear view from houses about 200m away at the edge of Desborough, but mature trees and a hedge reduce views of the site from the south. Another house adjoins the appeal site to the west.
2. In 1989 permission was granted in relation to the appeal site for the conversion of barns to a dwelling. Conversion began in about 1990 and was completed in 1998, but the details of the work carried out differed materially from the approved scheme. In 1997 the council, in response to a complaint, began negotiations with the appellant to resolve the situation. The result was a further application, approved in January 1999, for retrospective permission to convert a barn to a private dwelling but in accordance with a scheme of works different from that approved in 1989. The details of this permission, too, differ materially from the conversion actually carried out.

## The Appeal on Ground (a)

### Issues and Local Policies

3. The Council has stated that there is no objection in principle to the use of this property for residential purposes so long as the details of the conversion are satisfactory. However, they do not consider that the details in this case are satisfactory. Bearing this in mind, and from

what I have seen, heard, and read I consider that there are two main issues in determining this appeal. The first is whether the development carried out has an unacceptable effect upon the character and appearance of the surrounding countryside. The second is whether there is a need for a vehicle passing place on the drive leading to the house.

4. The local development plan for this area is the Local Plan for Kettering Borough, adopted in 1995. Its general stance is that, in general, housing development in open countryside is unlikely to be acceptable. However, certain types of housing may be allowed so long as they comply with certain detailed policies. Policy RA14 states that planning permission will be granted for the conversion of existing buildings in the open countryside subject to several provisos. One of these is that the conversion of a building to residential use should not have a detrimental effect on its character. Another is that any proposed extensions should be small in scale, subordinate in size and form to the original building, and of complementary materials. A third is that any alterations should be in keeping with the original design and provide, where appropriate, for the retention of original features such as openings and roof structures. A fourth is that proposals should provide, where appropriate, for the retention or reinstatement of the original walls and roof finishes. A second policy, Number 84, provides that permission for development which changes the volume or character of traffic will only be granted so long as it meets a number of requirements designed to protect the safety and convenience of traffic and pedestrians.

#### The First Issue

5. The local plan provides for the conversion of certain existing buildings to houses, but only if they are suitable for conversion and the details of that conversion are in keeping with the original building and the architectural idiom of the area. Two designs have been submitted by professional agents on behalf of the appellant, and the Council granted permission in respect of both schemes.
6. Unfortunately what has been built is materially different from either of them. Most of the original walls appear to have been retained, but the roof has been re-covered with flat profile concrete tiles rather than the reclaimed slates shown on the 1989 and 1998 applications. Most of the doors and windows are of UPVC rather than the wood shown on the approved plans, and a new garage has been faced in brick rather than the stone indicated on the plans. The original barn had tall central openings on both the north and south elevations and both the 1989 and the 1998 schemes had appropriate, albeit different, ways of treating these openings. The scheme carried out is dissimilar to either of the approved plans in this respect, with a conservatory at the rear and a window treatment that includes a balcony on the front elevation. It has been suggested that the conservatory did not need permission but no evidence has been proffered to support such a view. A further difference is the provision of a chimney that was not included in either of the approved schemes. There are other minor differences that did not affect my analysis.
7. I recognise that some of the features of the original buildings, for instance the asbestos sheeting on the roof, were even less suitable than the materials that have now been used, but I do not attach much weight to that fact. It seems possible that the asbestos was a temporary measure and not a feature of the barn as it was built. In any event, whilst such an expedient might have been tolerable as part of a barn it is not acceptable as the roof of a house. The allowance made by the local plan for the conversion of some buildings is only on the basis

that the alterations retain as much as possible of the materials and appearance of the original buildings as well as local building traditions. The scheme carried out here makes far too much use of materials which do not harmonise with the original ones, and design features at odds with the local tradition.

8. I recognise that undoing the changes made would now be difficult and expensive, but the appellant had the benefit of professional advice and either was, or should have been, aware of the Council's requirements throughout. The two suitable schemes that were submitted in his name suggest that the former was the case. I accept that he has not sought to deceive the Council, but the course of action he adopted paid insufficient heed to the requirements of a local plan that had been adopted only after lengthy consultation procedures, and whose provisions are consistent with national guidelines. The appellant has received the benefits of the plan's provisions, and should not be able to evade its obligations. The Council has not acted hastily or unreasonably, and gave him an opportunity to redress the situation by submitting alternative details. Unfortunately no constructive use was made of that opportunity, and the appellant gave no cogent explanation as to why the scheme in the 1998 application was submitted, but then not implemented.
9. The property is screened from some directions but it is in clear view from others. The existing development is, in my view, markedly at odds with the character of the existing building, as well as some of other nearby buildings, and its retention would be harmful and prejudicial to the aims of the local plan to protect the countryside. Moreover, should inappropriate development such as this be allowed to remain in the absence of any clear justification, the Council's objective to secure appropriate conversion designs elsewhere would be undermined. The appellant has offered to remove or rebuild certain parts of the development, notably to remove the conservatory and the canopy at the front of the property and to render the brickwork from which the garage has been constructed. These measures would go some way towards improving the appearance of the property, but I do not consider that they would be enough to make its eventual appearance acceptable. My overall conclusion is that the development carried out has unacceptably effected the character and appearance of the surrounding countryside.

#### The Second Issue

10. Whilst the appellant has carried out some work towards the provision of a passing place adjacent to the access track, it is not wide enough to be useable. Furthermore the surfacing treatment seems to consist of little more than the spreading of some stone chippings beside the track. The area is overgrown by weeds, it slopes down from the track's level, and I can well imagine that drivers would be reluctant to pull onto it. This is a fairly lengthy track and the part containing the passing place would potentially be used to serve at least two dwellings as well as farmland. Conflict of vehicles travelling in opposite directions would not be frequent, but it is not an insignificant possibility. Without a passing place vehicles might have to reverse a considerable distance along a narrow track. It is mainly unlit and at night such reversing could be hazardous. I conclude that there is a justified need for a passing place, and I further conclude that the area that has been provided is inadequate to serve the purpose. However, since a condition to provide one could be imposed upon any permission granted, this factor does not add greatly to the case against granting such permission.

## Summary

11. I have indicated my conclusions on the main issues I have identified and I find the harm arising under the first issue to be sufficient to justify refusing permission for the retention of this development. I have looked at other properties in the area and I have taken into account what I have been told in letters from local residents and from the appellant. I do not doubt that there are other dwellings in the area with unsuitable features, and it may be that the Council has granted permission for some of them. However, such dwellings are different from the present case in situation and appearance, and I do not know the circumstances surrounding any permission granted. In any event, I am not aware of any permitted conversion which has involved as many unsuitable features as that carried out in this case. I have taken into account the appellant's circumstances but I do not consider them to be enough to override the planning objections I have identified. Taking into account all of the relevant factors I conclude that permission to retain this development should not be granted and the appeal on Ground (a) fails accordingly.

## The Appeal on Ground (f)

12. The arguments put forward in the grounds of appeal are mainly directed towards Ground (a) rather than Ground (f), and I have dealt with them in considering the appeal on the former grounds. The conclusions I reached in that context explain why I do not consider the requirements of the notice to be excessive or inappropriate for the reasons advanced by the appellant. However, a number of the requirements include a phrase "to be submitted to the Local Planning Authority for approval" or some such wording. The judgement in *Kaur V SoSE* (1989) established that requirements incorporating such wording are, in most instances, unacceptable because they fail to specify with sufficient particularity what is required of the appellant. I intend to delete, in this case, all such requirements, and I shall also alter the wording of some requirements which refer back to those deleted. I consider that the conditions remaining are sufficient to secure the purposes of the notice, but do not exceed what is necessary to remedy the breach of control which has occurred. The appeal on Ground (f) succeeds to the extent I have indicated.

## Conclusions

13. For the reasons given above I conclude that the appeal should not, on balance, succeed. I shall exercise the powers transferred to me to uphold the notice with variations, and refuse to grant planning permission on the deemed application.

## Schedule 2

Appeal : T/APP/L2820/C/99/1019686

It is directed that the enforcement notice shall be varied by the deletion of Section 5 of the Notice and the substitution therefor of the following:

### 5. WHAT YOU ARE REQUIRED TO DO

*The steps required to remedy the breach of planning control are set out below and accord with a grant of planning permission issued by the Council under reference KE/98/0441 relating to the conversion of an agricultural building to a dwelling.*

- ✓ 1. A 10m by 3 metre passing bay shall be provided adjacent to the access track at the same level as, and surfaced to the same standard as, the existing track;

*Time for Compliance : 3 months from the date that the notice takes effect;*

2. The walls of the dwelling shall be constructed of natural local stone, coursed and pointed in the traditional manner.

*Time for Compliance : 12 months from the date that the notice takes effect;*

- ✓ 3. The concrete roof tiles shall be removed from the buildings shaded blue on the Plan A attached to the notice;

*Time for Compliance : 18 months from the date that the notice takes effect;*

- ✓ 4. The roofs of the building shaded blue on the Plan A attached to the notice shall be laid with natural slate;

*Time for Compliance : 18 months from the date that the notice takes effect;*

- ✓ 5. All PVC windows and doors shall be removed and replaced with wooden doors and windows;

*Time for Compliance : 18 months from the date that the Notice takes effect;*

- ✓ 6. The front elevation to the courtyard shall be changed to conform to the drawings and annotations shown on Plan No 3018.98 1B attached to the notice. (by letter 17/7/00)

*Time for Compliance : 18 months from the date that the Notice takes effect;*

- ✓ 7. The rear elevation of the building shall be changed to conform to the drawings and annotations shown on Plan No 3018.98 1B attached to the notice. (by letter 17/7/00)

*Time for Compliance : 18 months from the date that the Notice takes effect;*

- ✓ 8. The side elevation of the building shall be changed to conform to the drawings and annotations shown on Plan No 3018.98 1B attached to the notice. (by letter 17/7/00).

*Time for Compliance : 18 months from the date that the Notice takes effect;*

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Subject thereto the appeal is dismissed, the notice upheld a varied, and planning permission refused on the application deemed to have been made under S177(5) of the amended Act.

*BC Wilkins*

## APPEARANCES

### FOR THE APPELLANT:

Mr L Wiggins BA(Hons) DipUP MRTPI      Planning Aid

Mr De Retana      Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr T Shields      Enforcement Officer, Kettering B C

Mr M Harvey      Enforcement Officer, Kettering B C

Mr M Shipman DipURP      Planning Officer, Kettering B C

## DOCUMENTS

- |          |   |   |
|----------|---|---|
| Document | 1 | List of persons present at the inquiry                |
| Document | 2 | Letter of notification                                |
| Document | 3 | Letters Received                                      |
| Document | 4 | Enforcement Notice and associated report to committee |
| Document | 5 | Documents relating to permission KE/89/0735           |
| Document | 6 | Documents relating to permission KE/98/0441           |
| Document | 7 | Appeal decision issued on 1 <sup>st</sup> June 1995   |



## Schedule I

### Requirements of the Notice and Periods for Compliance.

1. Representative Samples or details of all external stone facing and slate roofing materials are to be submitted to the Local Planning Authority for Approval.  
1 month from the date when the Notice takes effect
2. Written details of a 10m by 3 metre hard surfaced passing bay adjacent to the access track shall be submitted to the Local Planning Authority for approval.  
1 month from the date when the Notice takes effect
3. Details of windows, doors, timber finishes and verge details shall be submitted to the Local Planning Authority for approval.  
1 month from the date when the Notice takes effect
4. The hard surfaced 10m by 3 metre passing bay adjacent to the access track shall be provided adjacent to the access track in accordance with the approved details.  
3 months from the date of the approval of the passing bay details
5. The walls are to be constructed of natural local stone, coursed and pointed in the traditional manner.  
12 months from the date of the approval of the external facing stone materials.
6. Remove concrete roof tiles from the buildings shaded blue on the Plan A attached to the notice.  
18 months from the date when the Notice takes effect
7. The roofs of the building shaded blue on the Plan A attached to the notice are to be laid with natural slate.  
12 months from the date of the approval of the external roofing materials
8. All uPVC windows and doors are to be removed and replaced with wooden doors and windows approved by the Local Planning Authority.  
12 months from the date of approval of the window and door details
9. All approved timber finishes and verge details are to be incorporated into the building.  
12 months from the date of approval of the timber and verge details window and door details
10. Alter the front elevation to the courtyard to conform to the drawings and annotations shown on Plan No 3018.98 1B attached to the notice.  
18 months from the date when the Notice takes effect
11. Alter the rear elevation to conform to the drawings and annotations shown on Plan No 3018.98 1B attached to the notice.  
18 months from the date when the Notice takes effect
12. Alter the side elevation to conform to the drawings and annotations shown on Plan No 3018.98 1B attached to the notice.  
18 months from the date when the Notice takes effect