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# Appeal Decision

Inquiry held on 23 May 2017

**by Paul Dignan MSc PhD**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 May 2017**

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**Appeal Ref: APP/A1910/C/16/3155925**

**Land at Piggery Farm/ Hamberlins Farm, Two Ponds Lane, Northchurch, Berkhamsted, Herts, HP4 3TD.**

- 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 Mr J Eames against an enforcement notice issued by Dacorum Borough Council.
  - The enforcement notice, numbered 4/02321/15/ENA, was issued on 15 July 2016.
  - The breaches of planning control as alleged in the notice are: Without planning permission the material change of use of the land from agriculture to a non-agricultural construction/vehicle/materials storage yard, containing non-agricultural vehicles, tyres, skips, trailers, waste metal, materials and other miscellaneous items not associated with the agricultural use of the land; Also, without planning permission the material change of use of the building, outlined in blue on the attached plan, from agriculture to non-agricultural motor vehicle and materials storage; In respect of operational development, the breach of planning control alleged is the formation of a raised level surface (shown in its approximate position with green hatching on the attached plan) comprising an engineering operation without planning permission.
  - The requirements of the notice are: 1. Cease the use of the land shown edged red on the attached plan, as a non-agricultural construction/vehicle/materials storage yard, and remove from the land all non-agricultural vehicles, tyres, skips, trailers, waste metal, materials and other miscellaneous items not associated with the agricultural use of the land; 2. Cease the use of the building outlined in blue on the attached plan for non-agricultural motor vehicle and materials storage and remove from the land all non-agricultural motor vehicle and materials; 3. Remove all hard surfacing materials from the artificially raised area from the land; Return the land to its original ground level, gradient and condition before the breach of planning control took place.
  - The period for compliance with the requirements is 2 months for Steps 1 and 2, and 6 months for Steps 3 and 4.
  - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
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## Decision

1. The appeal is allowed in so far as it relates to the material change of use of the building shown outlined in blue on the plan attached to the notice and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely *The material change of use of the building from agriculture to non-agricultural motor vehicle and materials storage*, subject to the following condition:
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- 1) The building shall be used solely by the occupiers of Piggery Farm, Two Ponds Lane, Northchurch, Berkhamsted and shall not be used for any commercial activity whatsoever, including, but not limited to, the storage of commercial vehicles or materials.
2. It is directed that the notice be varied by deleting at Section 3 Requirement 3 the words "artificially raised area" and inserting in their place the words "area shown hatched green on the plan attached to the notice"; and by inserting at Section 3 Requirement 4, immediately after the word "land" the words "shown hatched green on the plan attached to the notice".
3. Subject to these variations, and the limited success on ground (a), the appeal is dismissed and the enforcement notice is upheld. Planning permission for *the material change of use of the land from agriculture to a non-agricultural construction/vehicle/materials storage yard, containing non-agricultural vehicles, tyres, skips, trailers, waste metal, materials and other miscellaneous items not associated with the agricultural use of the land*, and for *the formation of a raised level surface* is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Reasons

4. The notice concerns a former agricultural field and building. When the appeal was made there were additional grounds pleaded to that set out in the header above, but these were withdrawn after the Inquiry opened. The remaining appeal on ground (a), accompanied by a deemed planning application, solely concerns the use of the former agricultural barn. The barn is no longer required for agricultural purposes, the appellant having ceased to raise cattle on the farm, the last agricultural use of the building. The most recent use of the barn has been for storage of the appellant's extensive private motor vehicle collection, mostly classic cars for occasional use or for restoration. The appellant wishes to continue to use the building for this purpose.
5. There being no present agricultural need for the building, it is not disputed that the building can be considered as redundant. The site is in the Green Belt, but the re-use of buildings that are of permanent and substantial construction in the Green Belt is not considered to be inappropriate provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt, as set out in the National Planning Policy Statement and re-iterated in Policy CS5 of the Dacorum Borough Core Strategy (CS) adopted in September 2013. The building is of permanent and substantial construction, and the specific use now sought is considered by the Council to be an appropriate re-use in CS Policy CS5 terms, provided that it is restricted to the private use of the occupier of the wider farm for the storage purposes stated. I see no reason to disagree. Such private use, which can be made the subject of a planning condition controlling the use of the building, would have limited associated activity outside of the building, hence there would be no material impact on Green Belt openness or on the purposes of including land in the Green Belt. Such a condition, restricting the use of the building to the limited non-commercial storage activities of the land occupier would meet the relevant tests and would make the development acceptable in planning terms in that it would accord with the development plan and with national policy.
6. So far as the other matters set out in the notice, the material change of use of all of the land and the engineering operations, these are inappropriate

development in the Green Belt which both the development plan and national policy state should only be approved where very special circumstances exist. Very special circumstances to justify these developments are not put forward in this case, and hence planning permission for these matters must be withheld.

7. I shall therefore allow the appeal insofar as it relates to the use of the building, and I shall grant planning permission for that part of the matters alleged in the notice to constitute a breach of planning control, and refuse planning permission for the other matters. To avoid inconsistent permissions arising from compliance with the notice, under the provisions of section 173(11) of the 1990 Act, I will uphold the notice, with two variations of the requirements which are for clarity only. In these circumstances the notice remains, but section 180 of the 1990 Act serves to mitigate the effect of the notice so far as it is inconsistent with the planning permission<sup>1</sup> granted on the application deemed to have been made in this respect under section 177(5) of the 1990 Act as amended. In other words, the requirements of the upheld notice will not have effect in so far as they are inconsistent with the permission granted on this appeal.

*Paul Dignan*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Rose Grogan  
Martin Crook MRTPI

Of Counsel, instructed by MSC Planning  
MSC Planning

### **FOR THE LOCAL PLANNING AUTHORITY:**

Jack Parker  
Philip Stanley MRTPI

Of Counsel, instructed by Christopher Gaunt,  
Dacorum Borough Council  
Dacorum Borough Council

## **DOCUMENTS**

- 1 Email to PINS dated 22/5/2017 setting out result of appellant's discussions with the Council.

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<sup>1</sup> *R v Chichester Justices Ex Parte Chichester DC [1990] 60 P&CR 342*