



The Planning Inspectorate

CS4

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Your Ref:

Our Ref:

T/APP/C/95/W9500/636664 &
T/APP/W9500/A/94/244945

Council Ref:

BOL/NYM3/81/36R/E

Date:

16 FEB 1996

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 174 AND
SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEALS BY JEFFERSON LIMITED
LAND AND BUILDINGS AT EATWELL RESTAURANT, FOX AND RABBIT,
LOCKTON, PICKERING

1. I have been appointed by the Secretary of State for the Environment to determine your appeals against an enforcement notice issued by the North Yorkshire County Council and a refusal of planning permission by the same Council, both concerning the above mentioned land and building. I have considered the written representations made on behalf of your client and by the Council and also those made by interested persons to the Council at the time of the planning application, copies of which have been forwarded to me. I inspected the premises on 13 November 1995.

Section 174 Appeal

2. (1) The notice was issued on 6 December 1994.
- (2) The breach of planning control as alleged in the notice is, without planning permission, the erection of a timber single storey building in the approximate position marked with a cross on the plan attached to the notice.
- (3) The requirements of the notice are:
 - (i) To remove the building, and

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|-------------------|
| NYMNP |
| Rec'd 19 FEB 1996 |
| As'd _____ |
| As'd _____ |

(ii) To remove from the land all building materials and rubble arising from compliance with the first requirement above.

(4) The period for compliance with these requirements is 2 months.

3. Your client's appeal against the enforcement notice was made on grounds (a) and (g) as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991.

Section 78 Appeal

4. The development for which planning permission was refused is the erection of a natural wood structure with sheeted apex roof in green for use as an office and storage for the Eatwell Restaurant.

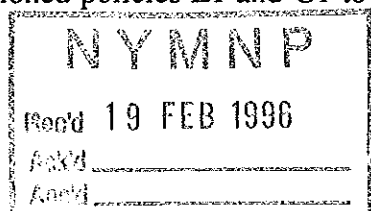
The Appeals on Ground(a) and under Section 78

5. From my inspection of the premises and the surrounding area, and from the written representations, I consider that the main issue in these appeals is whether the development accords with the aims of relevant policies in the development plan for the area and, if it does not, whether there are other material considerations which indicate that planning permission should, nevertheless, be granted.

6. The North Yorkshire County Structure Plan and the 1992 North York Moors Local Plan comprise the development plan for the area. The building the subject of these appeals, and the surrounding area, are in the North York Moors National Park. Policy E1 of the Structure Plan and Policy G1 of the Local Plan provide that priority will be given to the conservation of the landscape within the National Park and there will be a presumption against new development or major extensions to existing development except where it can be shown to be necessary in that location. Development should also conform with the detailed planning policies and objectives of the National Park Committee. The objective, as expressed in Policy G2 is to preserve and enhance the natural and built environment of the National Park.

7. It is argued on behalf of your client that the erection of the building is neither new development nor a major extension to existing development because the building is to be used in connection with an existing commercial undertaking and does not entail a major expansion of that enterprise. I consider that argument to be misconceived. The relevant development plan policies speak of development, not commercial undertakings or enterprises. I see no justification for departing from the meaning of 'development' given in section 55 of the 1990 Act when considering what the word means when it is used in policies E1, G1 and G2.

8. In these appeals, the development in question is the carrying out of a building operation consisting of the erection of a building approximately 9m long, 4.3m wide and 3.7m high in a corner of the car park which serves the Eatwell Restaurant. It is an independent building which is not attached to the main buildings used for or in connection with the restaurant. As such it is, in my opinion, to be regarded as new development rather than an extension, major or otherwise, to existing development. I consider that the above mentioned policies E1 and G1 to be relevant to this development. It needs to be shown that



the erection of the building in the corner of the car park is necessary and also that it does not conflict with the aim, expressed in Policy G2, of preserving and enhancing the natural and built environment of the National Park.

9. I accept that the restaurant business needs an office, but is it necessary for it to be located in a building erected for the purpose in a corner of the car park. If accommodation can not be found in the main restaurant buildings, it appears from the representations that there are existing outbuildings attached to the business which are available for conversion. It is said that they are earmarked for an alternative development, subject to planning permission being granted. The alternative development is not specified. It is a matter of priorities for your client to decide, but given that there are outbuildings which evidently are capable of providing accommodation for purposes ancillary to the main restaurant use, I do not consider that you have shown that it was necessary to erect the building in question.

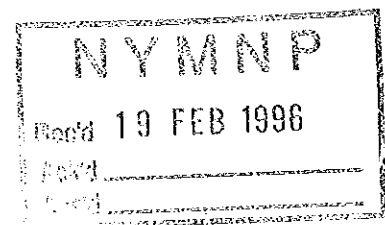
10. Similar considerations apply to the other ancillary uses of the building as a workshop and store. The recommendation made by the District Council's Environmental Health Officer, that handbags and personal items should be stored out of the kitchen and preferably in an appropriate locker, is not a compelling argument in trying to justify the erection of the building. The recommendation was made many months after the building was erected, and having regard to the location of the building in relation to the main buildings, and considerations of security and convenience, its use for that purpose does not appear to me to be of great weight in favour of permitting the building to remain.

11. The building has been added to a group of buildings used for commercial purposes, namely the Eatwell Restaurant and The Fox and Rabbit Inn, the latter being in separate occupation. The buildings of Fox and Rabbit Farm are also close by. The buildings are surrounded by a large area of open countryside.

12. The building can be seen from a short stretch of the A19, but for the most part it is hidden from the road by the buildings of the Restaurant and the Inn. It can also be seen from the public footpath. The Restaurant is a facility for tourism, so is the Inn; persons visiting the Restaurant will have clear views of the building as it is a prominent feature in the car park.

13. I have taken account of the proximity of the large farm buildings and the quotations from the advertisement appeals contained in the appeal statement. The commercial nature of the site is not disputed, but that does not mean that relevant planning policies are to have less weight. The buildings of the Restaurant and the Inn form a compact group and are built in traditional permanent materials. The new building is set apart from that group and is constructed of wood with a roof of metal sheeting. I share the Council's view as to the appearance of the building and its siting in relation to the group; in my opinion the building neither preserves nor enhances the natural and built environment of the National Park.

14. Local Plan Policies EN1 and EN2 are concerned with industrial and business land and buildings. EN1 makes specific reference to Classes B1 and B2 of the Use Classes Order. The restaurant use is not an industrial or business use in that context; it is more likely to fall within Class A3, Food and Drink. I do not consider that either of those policies assists your client's case. Insofar as Policy I13 in the Structure Plan might have some relevance, I consider that any contribution the building might make to further the aims of that policy is



likely to be very small. I do not consider that it outweighs the planning objections to the erection of the building.

15. My conclusion is that the appeals on ground(a) and under section 78 fail, and I do not propose to grant planning permission on the application deemed to have been made under section 177(5).

The Appeal on Ground (g)

16. The removal of the building will no doubt entail the transfer of the office and other ancillary activities to other accommodation. Various difficulties that this may entail have been put forward but the time factor has been left open ended. However, I accept that 2 months is a short period within which to make alternative arrangements. In my opinion, 6 months is a reasonable period within which to make alternative arrangements; even if it may take longer to provide accommodation on a permanent basis it ought to be possible to make reasonable temporary arrangements within other existing buildings within that time. To that extent, the appeal on ground(g) succeeds.

17. I have considered everything else which has been mentioned in the representations, but find nothing which outweighs the considerations which have led me to my decision.

FORMAL DECISION

18. For the above reasons, and in exercise of the powers transferred to me, I hereby determine these appeals as follows:

Section 174 appeal

I direct that the enforcement notice be varied by substituting 'Six months' for 'Two months' in paragraph 5 relating to the time for compliance. Subject thereto I dismiss your client's appeal, uphold the notice as varied, and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the amended Act.

Section 78 appeal

I dismiss your client's appeal.

RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully



T MCDERMOTT DPA SOLICITOR
Inspector

