



# The Planning Inspectorate

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Your reference:

ADB/177

Our reference:

T/APP/U2235/A/96/265789/P2

Date:

06 JAN 1997

Dear Sir

## TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6

### APPEAL BY C GOLDUP

APPLICATION NO: MA/95/1344

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This is against the decision of the Maidstone Borough Council to refuse planning permission for the erection of a two storey manager's house and double garage, alterations to the front elevation of the depot building and rearrangement of the parking area on land at Branden Depot, Maidstone Road, Marden. I conducted a hearing into the appeal on 27 November 1996.
2. The Council advise that no objections are raised to the alterations to the existing building or to the arrangement of the parking area, and I was told at the hearing that planning permission has now been granted for these developments. It is only the proposed dwelling which is in contention, and I shall proceed with the appeal on this basis.
3. From what I have heard, read and seen, I consider that the main issue in this case is having particular regard to local development plan policies relating to development in rural areas, whether the proposal would be unacceptably harmful to the character and appearance of the area.
4. Policies S6 and RS6 of the approved Kent Structure Plan combine to carry a presumption against development in the countryside unless necessary to agriculture or in other limited and defined circumstances. Policy RS1 broadly requires new development to be well



## APPENDIX A

designed and compatible with its surroundings. There are complementary policies in the emerging Third Review of the Structure Plan. Policies C1 and R7 of the adopted Maidstone Borough Local Plan echo Structure Plan policy. In addition, Policy ED5 of the Third Review advises that development which will assist in supporting the local agricultural and horticultural industry will normally be permitted if defined criteria are met. The emerging Third Review carries less weight than would be afforded to a formally adopted document.

5. I will deal firstly with the principle of the acceptability of the proposed dwelling and move later to consider the detailed design and siting. You explain that there are no Development Plan policies which fully address the subject matter of the appeal, and the changes that are taking place in the agricultural industry. Representations have been made to the County Council in the context of the Third Review of the Structure Plan, to the effect that there is a need for a strategic policy to assist the industry and this has resulted in the inclusion of draft Policy ED5. You accept that the proposal does not fall within ED5(a), but contend that it is development which would assist in supporting the local agricultural and horticultural industry. Moreover, the site is well related to the highway network, as required by ED5(b).

6. Your client has occupied the site since 1984, and has owned it since 1993. There has been considerable investment in the buildings and their extension. Produce, namely fruit and vegetables, is collected and transported to markets throughout the country. It is essential, you say, for someone to be on the site most times of the day and night, to control the cold stores and cool chain system, to receive foreign drivers arriving at unsocial hours, to monitor the temperature-controlled lorries, and for security reasons. Equipment breakdown would have serious financial implications. There have been thefts of vehicles, parts of vehicles, and fuel. The offices have been broken into and burgled. The appellant lives some three miles away and this precludes him from exercising proper control over the enterprise and avoiding the problems which have been experienced to date.

7. I note that the proposal does not fall within any of the exceptions set out in either the approved Structure Plan or adopted Local Plan whereby development may be approved in rural locations where normally restrictive policies are applied. Although the modified draft Policy ED5 allows for development which supports the agricultural industry, there are two specified criteria, compliance with one of which is sought. I agree with you that criteria (a) is not met as the proposal does not relate to a farm unit. I consider also that there is conflict with criteria (b), which requires that normally the development should be in or adjoining a settlement or located on land identified in local plans for employment uses. The site is in open countryside, well away from any settlement, and has not been identified in a local plan. I am in no doubt, therefore, that the countryside policies in the Development Plan are of particular relevance.

8. Nevertheless, it is necessary to consider whether the other material considerations which you have advanced, outweigh the policy objections. Your client has explained that the

cold systems need checking once every 8 hours or thereabouts. There have been breakdowns two or three times over the last 12 months. Thefts of and from vehicles have not occurred for some 6 months, since such vehicles were moved to the front forecourt area when the premises are unoccupied. In the past year, there have been two breakdowns of refrigeration equipment on vehicles in the depot. It was further explained by your client that the main justification for a dwelling would arise in the future as the industry quickly moves towards meeting the demand for temperature control during all phases of produce storage and movement. In this connection, I note the stated intention to increase the cold storage area either within the existing buildings, or preferably by erecting a new structure.

9. Although I recognise that when equipment fails, the results can be serious, from what I have been told the incidence of failure both with the cold stores and the vehicle refrigeration systems is low. A burglar alarm has now been installed in the office. Apart from lighting systems and surveillance cameras, no other modern sophisticated security equipment has been installed. For example, alarms involving the use of the telephone could be investigated, both in connection with the identification of the presence of intruders, and to detect changes in temperature. As stated in Planning Policy Guidance 7 in relation to agricultural dwellings, protection of stock from theft by intruders will not by itself be sufficient to justify one, and I would apply a similar approach in the case which is before me. No information was given on how often foreign drivers arrive outside normal working hours. I have no doubt that it would be more convenient for the manager to live on the site, but I agree with the Council that your client's business does not necessarily demand a rural location. In summary, I am not convinced that any of the arguments which have been put to me, either on their own or in combination, justify granting permission for a dwelling in the countryside, contrary to the established and emerging policies for the area.

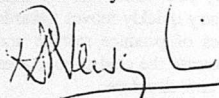
10. Turning to the site envisaged for the dwelling, this is part of an open, flat area of land, set well back from the road. The dwelling would be in an exposed position and clearly visible from its surroundings, which in the main comprise a predominantly flat landscape. It would be readily apparent from the road, over the front boundary hedge. The dwelling would also be seen, as the site is approached from a southerly direction, certainly when the trees on the southern boundary are not in leaf, over the banking which exists on the adjoining fish farm. I consider also that the prominence of the building would be given emphasis because of its size and general bulk. In my judgement, the proposal would add to and consolidate what is scattered and sporadic development in the area, and be unacceptably harmful to the rural character and appearance of the locality.

11. I have taken particular note of the support which has been given by the National Farmers Union and the British Independent Fruit Growers Association, whose representatives have emphasised the importance of the appellant's business to the farming industry. The offer of a Section 106 undertaking to ensure that the dwelling is not disposed of separately from the business is acknowledged, but this would not make acceptable development which is the subject of compelling policy and environmental objections. All other matters raised at the hearing and in the written representations have been taken into account, but none of these matters outweigh the factors which led me to my conclusion on the main issue.

APPENDIX A

12. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



R D NEWINGTON FRICS MRTPI  
Inspector