

Legal and Democratic Services

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TO: THE CHAIRMAN AND MEMBERS
OF THE DEVELOPMENT
CONTROL COMMITTEE

Please ask for:

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Your ref:

Our ref:

Mrs Durham

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MD

5 February 2004

Dear Member

**DEVELOPMENT CONTROL COMMITTEE –
FRIDAY 13 FEBRUARY 2004 AT 10.30 AM**

I refer further to the Agenda and papers which were recently circulated in respect of the meeting of the Development Control Committee to be held on Friday 13 February 2004 at 10.30 am.

Please find attached copy letter dated 6 January 2004 received from Burnetts, Solicitors, acting on behalf of the owners and occupiers of Pheasant Cottage, which was omitted from the Development Control Officer's report concerning application 03/0921 – Erection of 4 Pheasant Shelters (retrospective) on land adjacent to Pheasant Cottage, Corby Castle Estate, Great Corby (Item 01 in the Schedule of Applications refers).

I apologise for any inconvenience caused.

Yours sincerely

J M. Egan

ppw Head of Legal and Democratic Services



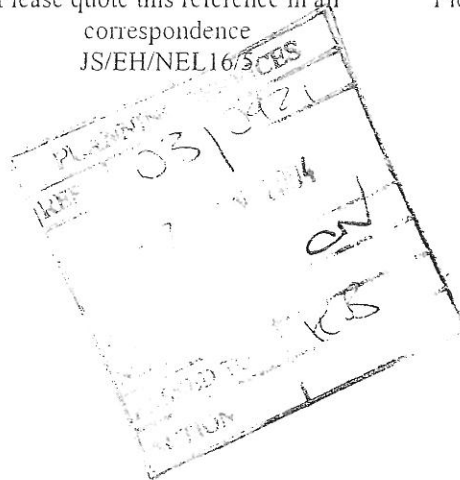
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Your ref
KHB/DC/03/0921

Please quote this reference in all
correspondence
JS/EH/NEL16/3/CBS

Please mark all correspondence
For the attention of
Mr J Stables
E-mail: js@burnetts.co.uk

Mr K H Brooke
Planning Services
Carlisle City Council
DX 63037
CARLISLE



6 January 2004

Dear Mr Brooke

Proposal: Erection of 4 Pheasant Shelters (Retrospective)
Location: Land adjacent to Pheasant Cottage Corby Castle Estate Great Corby
Application Ref: 03/0921

Thank you for giving me the opportunity to respond to the above mentioned application on behalf of my clients, Mr Nelson and Miss Berry, the owners and occupiers of Pheasant Cottage.

After perusing both the application and the independent report of Edwin Thompson it is my considered opinion that my clients' concerns as regards this application are entirely justified and that planning permission should be refused.

There are no justifiable planning grounds for this application and I have assured my clients that, as always, the Council will take no account of the fact that the applicant has already incurred expenditure in constructing the pheasant shelters. He did so without first obtaining planning permission, the necessity for which should have been obvious. It is for the applicant to satisfy yourself and the committee that sufficient planning reasons exist for this application to be granted. However, I have considered the Council's local plan and the justification for the development which the applicant has submitted to the authors of the independent report. I have outlined below my reasoning behind considering the application worthy of refusal.

Necessity

The local plan is clear that permission will not be granted for development in the undeveloped open countryside unless it is required to meet local infrastructure need (policy E8).

The independent report states that the purpose of the shelters is apparently two fold:-

Please note: we do not accept service of court documents by e-mail.

J. E. Morris
R. A. Bain
M. E. Cousins
J. D. Claxton
W. J. Priddle
T. S. Leach

M. P. M. Wrightson
A. Chapman
P. M. Hall
J. Noctor
S. Mortimer
K. Strycharczyk

R. M. V. Jones
J. V. Jagger
A. J. Lake
D. Heath

Practising Consultant
A. J. Cornish
Conveyancing Manager
J. M. Wood

Head of Agriculture
W. Green
Associate
J. D. M. Stronach

1. To improve rearing efficiencies and to minimise losses which occur following the transfer of birds to release pens; and
2. To provide an environment which complies with the five freedoms identified by the Farm Animal Welfare Council.

It is proposed that the shelters be used first in April and May during the laying period and then in July and August when the pheasants are 4/5—7/8 weeks of age. This second period being a new “interim” stage to be introduced by the owner between the traditional ‘brooder huts and runs’ stage and ‘release pens’ stage.

The applicant and Edwin Thompson refer to a paper by Stephen Lister which forms appendix four of the independent report.

Laying Period

The independent report states at paragraph 6.4 that the hatching of game bird eggs is generally disappointing, very often running at about 65%. This figure is taken from Stephen Lister’s article. Mr Lister goes on to state;

“Much of the wastage is related to management factors and the physical nature of the eggs. Game bird eggs are laid directly into the environment and are usually faecially contaminated. The fact that the game bird egg shell is very thin leads to more cracks and makes bacterial penetration more likely”.

If the owner seeks to suggest by use of Mr Lister’s report that the new units will reduce the percentage loss of eggs that must be questioned. The eggs will continue to be exposed to the same potential problems. Stephen Lister’s report suggests that the risks are best countered by artificial incubation. That can be (and presumably is) undertaken on the Estate without the necessity for the new pheasant shelters. It appears that the simple answer is to remove the eggs quickly. That does not require new shelters.

The owner also suggests that the birds will be removed earlier from the sheds, at the beginning of June rather than at the end of June. The provision of larger sheds can surely have no impact upon that decision. If that is to be implied then no doubt proof will be provided to the Planning Authority.

The New Interim Stage and the Five Freedoms

The first point to stress is that neither the owner or the independent report make reference to any expert text heralding the necessity or worth of pheasants being housed in large units such as those constructed by the applicant for a four week period between the time they spend in the ‘brooder huts and runs’ and their movement to the ‘release pens’. Further, there is no

suggestion that the existing arrangements for pheasant rearing on the Estate do not accord with the 'Five Freedoms' identified by the Farm Animal Welfare Council as outlined in the independent report.

Indeed, the independent report at paragraph 7.12 states that;

"It is arguable that the previous system of rearing, which continues to be generally adopted elsewhere, remains adequate and acceptable in practice".

The report goes on to outline the owner's answer to that point. That being, the increased welfare which will be afforded to the birds by the increase in space and shelter provided by the new pheasant sheds.

That reasoning is in itself admirable if true. However, I do not believe that justifying the application on that basis holds any merit. Rather, it appears to me to be thrown at the Council by the applicant in the knowledge that such an admirable cause is likely to be difficult to reject.

I do not believe the argument has any merit for a number of reasons;

1. It is still proposed to house the pheasants in weeks 1-4 in the 'brooder huts and runs' and after week 7 in the 'release pens'. As such, why are the new units justified only for the interim period of four weeks. The birds will undoubtedly grow bigger during that stage but why is there no requirement for the dry floor or roof during the earlier or later periods?
2. Even accepting that the pheasants will increase in size during weeks 4-8 the following additional points can be made;
 - (a) Stephen Lister's report to which the owner attaches such weight states that in the age group 2-8 weeks the most common problems are related to intestinal parasites (page 172). That problem will not be alleviated by providing the pheasants with more space in weeks 4-8.
 - (b) At no point is there any suggestion that the existing arrangements are cruel or unsatisfactory and, (particularly in view of the apparent regard the applicant has for animal welfare), one presumes that the existing arrangements already comply with the five freedoms outlined in the independent report. The owner has suggested (paragraph 7.12 of the independent report) that issues of welfare are becoming more stringently controlled. The fact that more stringent controls are being imposed are of course entirely correct and proper and one would suggest that in today's environment issues of animal welfare are already stringently enforced. To suggest that this application should be

approved on the basis that controls may become even more stringent in the future is not a sufficient planning ground to justify this application's approval. The applicant can not seek to have his application approved on the basis of the unforeseeable.

- (c) The report does not consider in detail why, if the issue of general welfare is of such concern, the 'brooder huts and runs' and 'release pens' cannot be increased in size. It simply states it would be 'inherently difficult' (para 7.13). If more stringent controls are considered necessary in the future then the owner will have to tackle those 'inherent difficulties' in any event as the applicant does not propose altering the 'brooder pens' and 'release pens' which he will continue to utilize. If, the applicant is happy to accept the level of existing welfare constraints in respect of the periods those units are to be used then one would suggest it is slightly disingenuous to propose this application be approved so that the pheasants may have more space than deemed necessary by the governing bodies during the 4-8 week age period.

The Scale and Character of the Structures

In addition to there being no proven necessity for the application it is my submission that the application must be refused on the basis of the scale and character of the shelter's constructed.

The structures have been constructed cheaply with no respect for their surroundings. They have tin roofs and contrary to what the applicant claims I am advised by my clients that they are visible from the road, especially in winter.

Policy E8 states that the proposal must reflect the scale and character of the existing group of buildings or settlement and have no adverse effect upon the amenity of neighbouring property and the character and appearance of the area.

Furthermore, the location of the sheds is within the boundaries of what Carlisle City Council have classified as a historic park, garden and battlefield under **policy E49**.

Policy E49 states that development will not be permitted where it is likely to damage or have an unacceptable adverse effect on the character and setting of registered historic parks and gardens and battlefields of visual or historic interest.

The structures do not accord with the provisions of either **policy E8 or E49** as is evidenced by the photographic evidence available.

The fact that my clients' property is called Pheasant Cottage and that the rearing of pheasants may have occurred around it in the past is irrelevant other than to make the point that

pheasant rearing is perfectly possible without developments of this nature. In any event, the development bears no resemblance to what pheasant rearing use the property may have had in the past.

Conclusion

Necessity

The independent report concludes that;

“Whilst it is arguable that the shelters are not absolutely essential there is firm support and a rationale behind the change in husbandry”.

In my opinion there is no such rationale behind the changes proposed for the reasons I have outlined above. Nor, have I seen any evidence of there being firm support for the change in husbandry proposed. As such, I do not believe the applicant has proven any necessity for the development required.

However, even if, hypothetically, some justification for the development is deemed to exist that is not sufficient to warrant the grant of planning permission. Policies E8 and E49 essentially require the development be deemed ‘essential’. The extract from the independent report quoted above establishes that this development is not ‘essential’.

Scale and Character

Further to the application failing to satisfy the grounds of necessity the nature of the development itself fails to comply with the justifiably strict requirements the planning authority impose as regards the scale and character of developments within the open countryside and historic estates such as at Corby.

You will no doubt provide the members of your Planning Committee with a copy of this letter for their consideration. However, in order that my clients may raise any additional concerns they may have, such as health concerns, I would like to request on their behalf that they be given the opportunity to address the committee meeting on 13 February.

May I take this opportunity to thank both yourself and the members of the committee for taking the time to consider my clients’ objections in detail.

Yours sincerely

JAMES STABLES

