



The Planning Inspectorate

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Your reference:

Council reference:
4/00007/98 ENA, E97/10
Your reference:
T/APP/C/97/A1910/649369-70
Date:
15 JUL 1998

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR AND MRS D LOCKETT
LAND AND BUILDINGS AT CHADS DEN, OLD WATLING STREET, FLAMSTEAD

1. As you know I have been appointed by the Secretary of State for the Environment, Transport and the Regions to determine your clients' appeals against an enforcement notice issued by the Dacorum Borough Council concerning the above land and buildings. You will recall that I held a hearing into the appeal on 30 June 1998.

THE NOTICE

2. (1) The notice was issued on 31 October 1997.
- (2) The breach of planning control as alleged in the notice is: "without planning permission, the erection of a building within the area shown cross-hatched in blue on the attached plan."
- (3) The requirements of the notice are to:
 - "1. Dismantle the brick and tile building located within the area shown cross-hatched in blue on the attached plan; and
 2. Permanently remove all of the building materials from the site."
- (4) The period for compliance with these requirements is 6 months.



GROUNDS OF APPEAL

3. The appeals are each proceeding on the grounds set out in Section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991. The deemed application for planning permission under Section 177(5) also falls to be considered.

THE SITE AND SURROUNDINGS

4. Your clients' property forms part of a small hamlet to the north of Flamstead on a slope of the valley above the River Ver. Its location fills the gap between the Old London Road (Watling Street) and the current route of the A5 trunk road. The western boundary runs along River Hill, a narrow lane which carries only traffic travelling northwards from the A5. On one part of the land is a bungalow, Chads Den, which is part of a small ribbon of development which forms the hamlet on either side of Watling Street. It is otherwise surrounded by open land used mainly for pasture and which has been incorporated into the Green Belt since the enforcement notice was issued.

5. Within your clients' ownership, the building which is the subject of this appeal stands on ground called The Paddock, which is separated from the garden of the bungalow by a brick wall and by a change in the ground levels. While the garden of Chads Den is cultivated, The Paddock has been untended. The Paddock has its own vehicular access to River Hill.

6. Planning permission was granted for extensions to the bungalow in November 1995. The drawings which accompanied the application also showed a building, labelled as a garden store, having the same breadth and depth of the building now in issue but with a flat roof. Since the Council regarded The Paddock as outside the curtilage of the dwelling, the application for the garden store was withdrawn and, by condition, was expressly excluded from the permission which was granted. Since that time the Council acknowledged that in earlier years The Paddock had been part of the curtilage.

7. After the 1995 permission your clients kept in touch with the planning officer who was dealing with the site. Apart from the correspondence which is appended to the parties' statements, your clients say that the officer told them that it would be permissible to proceed with the construction of the new building although with a pitched roof. His manuscript comments are on the letter of 17 February 1997 at document 2. You have decided, though, not to pursue a ground (c) appeal.

8. The structure as built is markedly different from the garden store originally shown. Apart from a substantial pitched roof, it has a high standard of construction with facing bricks, cavity wall insulation and provision for foul drainage. There is much more fenestration than shown on the original plans. The floor construction, in concrete beams, is well above the surrounding ground level.

9. In correspondence with the Council your clients indicated that the building might be used partly as a garden store and partly as an office in conjunction with Mr Lockett's building business. From time to time some valuable goods might be stored rather than leaving them

at his office address. Later use as a studio and gymnasium for the appellants' three teenage sons was suggested. At the hearing I was told that it would be used for storage of Mrs Lockett's books and as a quiet area where she could study for a degree.

THE APPEAL ON GROUND (a) AND THE DEEMED APPLICATION

10. Development plan policies for the area are contained in the Hertfordshire County Structure Plan Review 1991-2011 which was adopted on 30 April 1998 and in the Dacorum Borough Local Plan adopted in April 1997. Both documents contain policies for the maintenance of the Green Belt and the protection of the countryside which incorporate and reflect Government advice in PPGs (Planning Policy Guidance Notes) 1, 2 and 7. In particular the Council has drawn my attention to local plan policy 3 which sets out the presumption against inappropriate development in the Green Belt. It has also referred me to policy 5 which identifies land uses which are acceptable in the rural area and to criteria in local plan policy 20 which apply to new buildings and extensions in the Green Belt and the rural area.
11. Having regard to all these matters and from facts and representations presented at the hearing I have come to the conclusion that the main issues in this case are, first, whether the new building is appropriate development in the Green Belt and, secondly, its effect on the nearby houses and the countryside.
12. You say that there are no policies in the Local Plan which refer to or relate specifically to the provision of outbuildings within residential curtilages in Green Belt areas. Policy 3 of the Plan states that very small scale building which is necessary to sustain an acceptable use will be permitted provided it has no adverse impact on the character, function and appearance of the Green Belt. In your view an indication of what is very small scale building is found in the Town and Country (General Permitted Development) Order 1995 (GPDO).
13. Local Plan policy 3 states that within the Green Belt there is a presumption against building development with the exception of agriculture and other uses which do not apply to this appeal. While you accept the Green Belt status of the land, you point out that it was decided not to extend the Chilterns Area of Outstanding Natural Beauty (AONB) at the same time. Thus you submit that the site retains the full permitted development rights for the construction of outbuildings set out in the GPDO and these rights entitle the appellants to erect buildings of greater floor area than that already constructed subject to normal height restrictions without recourse to planning control.
14. However the new building does not comply with Class E of Part 1 of the GPDO even if the land forms part of the curtilage of the dwelling. It is less than 20 m from each of the roads to the south and west. Furthermore its height is well over 4 m and even if the roof is replaced by a flat roof it would probably exceed 3 m above the existing ground level.
15. The Council has considered Local Plan policy 20 which sets out the criteria for the assessment of extensions to existing dwellings in the Green Belt and the Rural Area. However, since this building is located about 55 m from the existing dwelling and is poorly related to other development in the locality, it does not measure up to these standards. This

separation results in the spread of built development in a form which detracts from the otherwise open nature of the site. In any event it is a large building which is visually intrusive.

16. PPG 2 advises that only limited extensions to existing dwellings are appropriate and that "provided that it does not result in disproportionate additions over and above the size of the original building, the extension or alteration of dwellings is not inappropriate in the Green Belt." In this case the Council calculate that the dwelling has already been increased by 41% and the floor area of the new building would provide a further increase of 56%. Given the characteristics of the construction of the new building, its size, its separation from the existing dwelling and its precise location on the plot, I consider that it appears as a free-standing additional building in the Green Belt.

17. In summary the building does not fall within the categories of development which are set out in paragraph 3.4 of PPG 2. Furthermore, because of its remote position on your clients' land, it cannot be regarded as an extension to the existing dwelling. Nor is it either a replacement dwelling or the re-use of an existing building. Despite the mature hedge around the site and the new planting which has been installed, it is a conspicuous structure which is easily seen in its open surroundings. Accordingly I have come to the conclusion that it is inappropriate development which visually harms its surroundings in conflict with policy 3 of the Local Plan.

18. Turning to the second issue, you indicate that much of the area is at a high level and therefore the building is only visible when viewed from the south. Furthermore there are other existing buildings to the west where permitted development rights could be exercised. As to views from the A5, the appellants would be prepared to supplement the existing screening in accordance with a landscaping condition. While the drawing showed timber cladding the present brick outer skin could be clad in timber pursuant to a condition if necessary.

19. My view is that like the Green Belt issue, the form of construction, the configuration of the plot and its capacity to be severed from the existing residential curtilage set it in isolation from other nearby development. It occupies a prominent position and has an adverse impact on the character and open nature of its surroundings. Although the site is bounded by a hedge, the building is visible from outside the site, particularly from the south and from the village of Flamstead. It is thus intrusive in the otherwise open part of the valley. Taken as a whole for all the above reasons the appeal on ground (a) fails and I shall not grant planning permission on the deemed application.

THE APPEAL ON GROUND (f)

20. You say that the appellants are willing to accept reasonable conditions whereby the bulk of the building could be reduced by changing its roof to a hipped format. There is no intention of creating a separate dwelling and the appellants are prepared to enter into a Section 106 agreement to that effect. Equally, if the existing vehicular access onto River Hill is a cause for concern, the appellants would accept a condition to ensure its closure. While an abundance of light is important for studio use, the appellants are prepared to remove any window openings which may be considered objectionable. These alterations, together with

any conditions in respect of materials, landscaping, removal of permitted development rights and closure of the existing access would overcome any injury to amenity caused by the breach of planning control. Thus demolition of the whole building would be an extreme measure.

21. For my part I have come to the conclusion that there are fundamental objections to such a large building which is inappropriate for the Green Belt and has a harmful impact on the surrounding countryside. Conditions would not overcome the harm and therefore the appeal on ground (f) fails.

THE APPEAL ON GROUND (g)

22. You submit that it would be unreasonable to remove the building within six months because if conditions requiring the Council's consent were to be imposed it would take longer than six months to negotiate those matters. However as indicated above I do not consider that conditions would alleviate the harm. Accordingly I shall not extend the time to comply with the requirements of the notice. The appeal on ground (g) fails.

OTHER MATTERS

23. In reaching my decision I have taken account of all other matters addressed to me at the hearing and in writing but I have found nothing which outweighs the balance of my conclusions on the main planning issues.

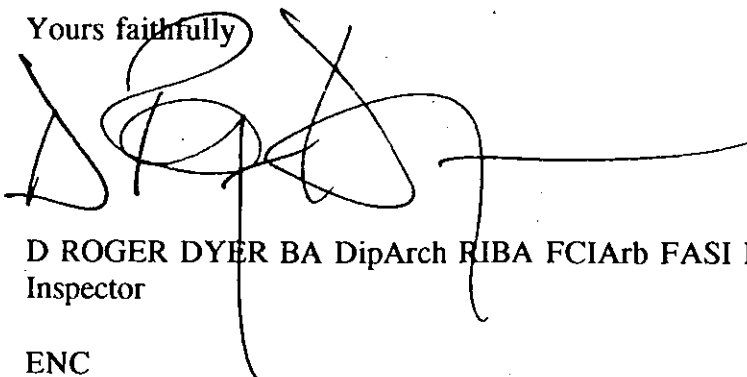
FORMAL DECISION

24. For the above reasons and in exercise of the powers transferred to me, I hereby dismiss this appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the amended Act.

RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully

A handwritten signature in black ink, appearing to be 'D Roger Dyer', written over a horizontal line. The signature is stylized and somewhat illegible.

D ROGER DYER BA DipArch RIBA FCI Arb FASI Barrister
Inspector

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APPEARANCES

FOR THE APPELLANTS

Mr Andrew King

BA(Hons) BPI MRTPI

- Principal Partner, Andrew King & Associates, Chartered Town Planning and Architectural Consultants.

Mr and Mrs D Lockett

- Appellants.

FOR THE LOCAL PLANNING AUTHORITY

Mrs Anne Davies

BA(Hons) MSc DipTP

MSc(Hist Cons) MRTPI

- Head of Planning Enforcement, Planning Department, Dacorum Borough Council.

DOCUMENTS

- Document 1 - List of persons present at the hearing.
- Document 2 - Letter of notification of the hearing and the distribution list.
- Document 3 - Letter to the Council from the appellants dated 1 May 1996.
- Document 4 - Letter to the Council from the appellants dated 17 February 1997.
- Document 5 - Appendices to the statement of Mr King.
- Document 6 - Appendices to the statement of Mrs Davies.