

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL



Application Ref No. 4/0009/93

Apsley D I Y  
38 London Road  
Hemel Hempstead  
Herts

Mr A.King  
Osborne Lodge  
Wick Road  
Wigginton  
Nr. Tring  
Herts

DEVELOPMENT ADDRESS AND DESCRIPTION

34-38 London Road, Hemel Hempstead, Herts

REPLACEMENT STORAGE BUILDING

Your application for *full planning permission* dated 06.01.1993 and received on 08.01.1993 has been *REFUSED*, for the reasons set out on the attached sheet(s).

Director of Planning

Date of Decision: 24.02.1993

(ENC Reasons and Notes)

REASONS FOR REFUSAL  
OF APPLICATION: 4/0009/93

Date of Decision: 24.02.1993



The site is affected by the line of the proposed Apsley Relief Road. The construction of the buildings proposed may prejudice the implementation of the road scheme which is included in the County Council's Capital Programme Reserve List, as set out in the Transport Policies and Programmes.



# The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404  
Tollgate House  
Houlton Street  
Bristol BS2 9DJ

PLANNING DEPARTMENT					Dacorum Borough Council		Ack.	
Ref.	DOP	T.C.P.M.	D.P.	D.C.	B.C.	Direct Line	File	0272-218927
						Switchboard		0272-218811
						Fax No		0272-218769
Received					16 JUL 1993		TIN	
Comments								
A E King BA BPL MRTPI					Your Ref:			
Osborne Lodge								
Wick Road								
Wigginton								
TRING								
Herts HP23 6HQ								

0272-218927  
0272-218811  
0272-218769  
1374

Our Ref: T/APP/A1910/A/93/221729/P7

Date: 15 JUL 1993

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY APSLEY DIY  
APPLICATION NO: 4/0009/93

1. As you know, I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for demolition of a single-storey wooden storage building and its replacement by a 2-storey brick storage building on land at 34-38 London Road, Apsley. I conducted a hearing into the appeal and inspected the site on 30 June 1993.

2. Although slightly different wording was used in the planning application form, it was agreed at the hearing that the above description accurately defines the nature of the application as submitted to the Council.

3. From my inspection of the site and its surrounds and from the written and oral evidence and submissions I consider that the main issue in this case is the effect of the proposal on implementation of the proposed Apsley Diversion road scheme.

4. The appeal site, which lies within the commercial centre of Apsley, is a plot which contains shop premises operated by your clients, with various outbuildings to the rear, and a car parking area. The appeal relates to one of the outbuildings, a small single-storey flat-roofed storage building of 46 sq m, built of wood and corrugated iron, and adjoining a larger, 2-storey, brick outbuilding. Your clients propose to demolish this single-storey building, which is now in poor repair, and replace it with a 2-storey brick building, on the same footprint as the existing building, but under a pitched roof designed to match the ridge height and profile of the adjoining 2-storey building. The scheme would provide an extra 18.25 sq m storage floorspace at first floor level.

5. The Council, acting on the recommendation of the County Highway Authority, refused planning permission on the sole

*Handwritten notes:*  
1/2/93  
2/2/93  
3/2/93



ground that the site is affected by the line of the proposed Apsley Relief Road and that construction of the building might prejudice the implementation of this scheme. There are no third party or other objections to the proposal.

6. The development plan for the area consists of the Dacorum District Plan (adopted 1984) and the Hertfordshire County Structure Plan Review Incorporating Approved Alterations 1991. Policy 68 of the District Plan states that the Council will not normally grant planning permission for any development which would prejudice the construction of certain identified roads on the Proposals Map. The Apsley Relief Road, more widely known as the Apsley Diversion, is not one of these roads. Nor is the Apsley Diversion specifically identified in any Policy in the approved Structure Plan.

7. The proposal, therefore, on the face of it does not conflict with any specific provision in the development plan for the area. However, for development control purposes, the Council now operates the emerging Dacorum Borough Local Plan Deposit Draft, which has been the subject of a Local Plan Inspector's Report. The site lies on the route of the proposed Apsley Diversion. Policy 48 of this Deposit Draft Plan requires new developments to take account of all highway schemes included in the detailed schedule, of which the Apsley Diversion is one. The Policy further provides that land will be safeguarded and permission refused for development which would prejudice the construction or effective operation of any of these schemes. Since the Local Plan Inspector did not recommend any modification of Policy 48, I attach weight to this provision.

8. The Apsley Diversion was originally intended both to remove the main flow of through traffic from the A41 trunk road and to enable the pedestrianisation of the local shopping area. However, the Diversion never became a programmed item in the TPP. The main flow of through traffic from the A41 is likely to be removed once the recently constructed A41 by-pass is fully opened. The District and County Councils no longer favour pedestrianisation in this area. The Apsley Diversion scheme is now ranked second in the "bypass category" of the County Council Reserve List, a significant step away from being a definite scheme for programming and implementation.

9. There is now considerable uncertainty as to the future of the Apsley Diversion. In 1990/91 prices the estimated cost of the scheme is £4m. A recent Discussion Paper, published in May 1993, sets out advantages and disadvantages of retention of the scheme in the TPP. Paragraph 6.2.5. of this Paper states that on the face of information currently available it appears on balance that the Diversion should not proceed. However, the same paragraph also states that all the issues (including resulting traffic patterns from the effects of a recently opened Sainsbury's and the by-pass) should be looked at and carefully considered before a decision is finally taken.

10. The County Council intends to take a decision on whether to keep or drop the Apsley Diversion in the TPP in 12-18 months time. At the hearing the representative of the County Council stated that even if the Highway Authority should decide to retain the Diversion in the TPP, there might still be a considerable period, possibly 8-30 years, before this scheme could be implemented.

11. As I saw on my inspection, the existing building is now in a very poor state of repair. The roof leaks, and there are gaps in the timbers. The Council accepts that the appeal scheme would result in a better building, both aesthetically and functionally, since the present building is unsightly, and a pitched roof would be more satisfactory. The appeal proposal would allow extra storage space in a better building for an established small business, which needs proper facilities in order to compete with larger operators now trading nearby in more modern buildings. The development would thus facilitate efficiency of operation of a small business. PPG4 generally encourages the favourable treatment of such development proposals.

12. The only potential effect of this proposed development on the Apsley Diversion is the risk that if the appeal were allowed and the road scheme were to be implemented later, the acquiring authority would have to pay by way compulsory purchase costs for the value of a 2-storey, rather than a single-storey, storage building. On current property values this possible extra compensation is estimated at not more than £10,000. In order to overcome this objection of possible extra acquisition costs your clients previously offered to agree with the Council to limit their compensation rights in respect of any permitted replacement building. However, the Council declined to make such an agreement.

13. In any event, regardless of the appeal proposal, the existing building can lawfully be retained or repaired without planning permission. The present proposal does not involve new building on open ground. In both these respects I consider that this case differs significantly from that considered on an enforcement appeal, determined by decision letter dated 5 June 1989, relating to another outbuilding on the appeal site, a breeze block building which had been erected in breach of planning control. In that case the Inspector allowed retention of the building, but only on a temporary basis, now extended to December 1994, in order to safeguard the possible route of the Apsley Diversion.

14. By contrast, the Council granted permission in 1989 for another nearby building, a vehicle hoist workshop about 4.5m x 7m x 7.5m high, which has recently been built very close to the appeal site. This other building also lies on the route of the Apsley Diversion.

15. The Council contends that the appeal proposal is premature, pending resolution of the future of the road scheme. However, the building is in urgent need of repair, and given the uncertainty of the future of this road scheme,

and the likelihood of long delay in its possible implementation, I do not think it reasonable for the appeal proposal to be rejected on grounds of prematurity.

16. In my opinion, the proposed replacement of this small building, which is near the end of its useful life in its present form, by a slightly taller building on the same footprint would not prejudice the possible construction or effective operation of the Apsley Diversion. In all the circumstances, having regard to the poor state of repair of the present building, the functional and aesthetic advantages of replacement over repair, the uncertainty of the future of this road scheme, the length of time before it may be implemented, and the small effect of the appeal proposal on the potential total costs of the scheme, I conclude that this appeal should be allowed. For all these reasons, which are confined to the facts of this particular case, and therefore not setting any general precedent, I do not consider that a grant of permission in this case would be contrary to the underlying aims of Policy 48 of the emerging Local Plan.

17. I have taken into account all other matters raised in the representations, but find none which outweighs the considerations which lead me to the balance of my main conclusions. I propose, therefore, to allow this appeal. The Council suggested a condition requiring submission of samples of external materials, so as to ensure that the replacement building should match the adjoining brick building, but in my opinion the submitted plans already contain sufficient details in this respect to avoid the need for such a condition.

18. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal, and grant planning permission for demolition of single-storey wooden storage building and its replacement by a 2-storey brick storage building on land at 34-38 London Road, Apsley, in accordance with the application No 4/0009/93 dated 6 January 1993 and the plans submitted therewith, and subject to the condition that the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter.

19. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

20. The developer's attention is drawn to the enclosed note relating to the requirements of the Buildings Regulations 1991 with respect to access for disabled people.

Yours faithfully

*R F Woodhouse*

R F WOODHOUSE MA(Cantab) Barrister  
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr A E King BA BPL MRTPI - Osborne Lodge, Wick Road,  
Wigginton, Herts, HP23 6HQ.

Supported (at site inspection) by

Mr Ian MacLean - Managing Director of Appellants

FOR THE PLANNING AUTHORITY

Mr P S Newton BA MRTPI - Planning Officer with the Council.

Mr R McMullen - Assistant Divisional Highway  
Manager, Transportation Department  
Hertfordshire County Council.

DOCUMENTS

- Document 1 - List of persons present at hearing.
- Document 2 - Council's letter of notification of hearing.
- Document 3 - Circulation list of notification letter  
(no responses received).
- Document 4 - Planning appeal decision letter dated  
5 June 1989 reference T/APP/C/88/  
A1910/000011/P6.
- Document 5 - Extract from Local Plan Inspector's report,  
paragraphs 8.9-8.12 relating to Policy 48  
of Dacorum Borough Local Plan.
- Document 6 - Appendices produced by Mr King.
- Document 7 - Appendices produced by Mr Newton.
- Document 8 - Appendices produced by Mr McMullen.
- Document 9 - Discussion paper May 1993 published by  
Council entitled "Issues in Apsley".

PLANS

- Plan A - Submitted application drawing 4/009/93FL(i) -  
existing buildings.
- Plan B - Submitted application drawing 4/009/93FL(ii) -  
proposed buildings.