

Town Planning Ref. No. 4/0032/83

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other Ref. No.

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To Mr K R Martin 10 Pollywick Road Wigginton Tring Herts
Mr G Nicholls 126 Poyle Road Tongham Farnham

Change of use from shop to shop for the sale of hot food and shop at 8 Miswell Lane Tring

Brief description and location of proposed development.

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 10th January 1983 and received with sufficient particulars on 10th January 1983 and shown on the plan(s) accompanying such application, subject to the following conditions:-

- (1) The development to which this permission relates shall be begun within a period of 5 years commencing on the date of this notice.
(2) Hot food shall not be sold except between the hours 09.00 to 23.00 on Mondays to Saturdays.
(3) Before development is commenced, full details of the proposed fume extraction ducting shall be submitted to and approved by the Local Planning Authority.

PLANS Continued

Plan B - Copy of plan of area surrounding the appeal site showing Tring bypass.

" C - Plan of the area surrounding the appeal site showing land uses, boundary of extension to Metropolitan Green Belt, area of Great Landscape Value, and Area of Outstanding Natural Beauty, with part of boundary of Tring Conservation Area super-imposed.

APPEARANCES

FOR THE APPELLANT

Mr P R Faulkner FRICS

- Partner of Messrs Faulkners,  
Chartered Surveyors, 49 High Street,  
Kings Langley, Herts.

He called:

Mr J E Jenks

- The Appellant.

FOR THE PLANNING AUTHORITY

Mr G Grynowski

- Assistant Secretary, Legal, Dacorum  
District Council.

He called:

Mr D P Noble BA MRTPI  
MIAS MRSH

- Principal Assistant Planner, Dacorum  
District Council.

There were no interested persons.

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- " 2 - Copy of letter from Dacorum District Council to interested persons informing them of the appeal and inquiry.
- " 3 - Copies of a letter from an interested person, and a press cutting handed in at the inquiry, in addition to 11 letters previously received.
- " 4 - Copy of planning application for the rebuilding of the existing structure on the appeal site, and a change of use to residential, dated 22 August 1979.
- " 5 - Copy of application subject of the appeal.
- " 6 - Copy of letter from Agricultural Development and Advisory Service to Dacorum District Council dated 3 November 1983.
- " 7 - Copy of letter from the Department of the Environment dated 20 August 1975 to Messrs R J Aitchison.

PLANS

- Plan A - Plans of the appeal site and building on it, accompanying the application subject of the appeal.

Country Amenities Act 1974) as amended by paragraph 26(2) of Schedule 15 of the Local Government Planning and Land Act 1980 which requires consent to be obtained prior to the demolition of any building in a considervation area.

I am Gentlemen  
Your obedient Servant

A handwritten signature in cursive script, appearing to read 'J M Daniel', written in dark ink.

J M DANIEL DFC FBIM  
Inspector

11. I am thus of the opinion that the arguments against the requested use on grounds of setting an undesirable precedent are not strong enough to be an overriding consideration in this instance. I appreciate the council's point that Circular 22/80 is not intended to weaken any planning policies applicable to the green belt and other specially protected areas, but I am not convinced that it would be justified to refuse permission for this particular proposal in relation to an existing building in all the circumstances prevailing and in the absence of any specific and convincing objection in the various senses referred to in Circular 22/80. The circular of course also stresses the need for small dwelling units such as provided by the appeal premises, and the desirability of safeguarding good agricultural land by using land of lower quality for housing where this can reasonably be done.

12. In considering details of the proposed change of use if permission were to be granted, the council would wish the permitted development rights in respect of the dwelling removed in order to prevent it being extended in any way without them being able to consider the effect, bearing in mind that it is one of the original buildings erected by the Rothschild family as part of Home Farm. This seems to me to be essential as my conclusion about the minimal effect that the continued residential use would cause is based primarily on the building retaining its present appearance. I have also considered the suitability of the existing access to serve traffic associated with a newly-permitted dwelling unit as I found during my site inspection that the access to "Cloud 9", from which access to the appeal premises would also be taken, is less than satisfactory in terms of visibility splay available in an easterly direction. However the council have not raised any objections to the small additional usage involved in the present proposal. Bearing in mind that Park Road, which is not heavily used, is subject to a 30 mph speed limit, and that once the driver of an emerging vehicle can see beyond the hedge on the eastern side of the access (ie at a point about 1.6 m back from the edge of the carriageway) the visibility distance is more than 60 m, I am of the view that it could reasonably be concluded that the risk of an accident would be small and that, on balance, it would not be justified to refuse permission for this reason alone.

13. I have examined all the other matters raised in the representations, but there is nothing of sufficient substance to outweigh those considerations that have led me to my decision that permission should be granted for the residential use to continue as an exception to the council's normal planning policies, subject to a condition removing the permitted development rights.

14. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the continued residential use of a building at Little Cloud, Park Road, Tring in accordance with the terms of the application (No. 4/0031/83) dated 30 November 1982 and the plans submitted therewith, subject to the condition that notwithstanding the provisions of the Town and Country Planning General Development Orders 1977 to 1981, no development, including the extension and enlargement of the building, and the erection of a garage, or sundry minor operations, including construction of fences, walls or other means of enclosure, shall be carried out without the prior written consent of the local planning authority.

15. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971. Your attention is drawn to the provision of Section 277A of the Town and Country Planning Act 1971 (inserted into the Act by the Town and

small bungalow when viewed from the road and does not look out of place as such at the eastern end of a row of council houses, with the backs of the gardens of 2 semi-detached dwellings in the original lodge building to the former Home Farm on the other side. Further to the east there are 2 semi-detached bungalows which were permitted after another appeal that I was appointed to determine in 1975 in respect of a small plot of land surrounded by a high wall which formerly ran with the Convent of St Francis de Sales. Beyond there is yet another dwelling, originally a second lodge to the former Home Farm. At that point the character of the southern frontage of Park Road completely changes as it is entirely open as far as Hastoe Lane.

9. I wish to stress that my view on the effects of the residential use should in no way be interpreted as condoning the breach of planning legislation which has resulted from the owner of the appeal premises allowing the present occupier to take up residence within a very short time of planning permission having been refused for the rebuilding of the existing structure and a change of use to residential in October 1979. You stated at the inquiry that the very long association of the well-known owner and his family with Tring should be taken into account in determining the appeal. I have some sympathy with the elderly appellant who was made homeless through no fault of his own, although this has not in fact influenced my decision, but if the owner had wished to employ him he should not have allowed him to occupy the appeal premises after permission for residential use had been refused for such a use a short time before, and no appeal made against that decision or for a ruling on whether a change of use would be involved. I thus consider the council's subsequent decision to take enforcement action was entirely justified, even though I find myself in sympathy with the view expressed by a number of local residents that the use of the premises for residential use would not cause any material harm. Moreover if a change of use is not permitted, this small building would be likely to remain empty as there is apparently no other use for it. As it is of substantial construction it could remain for many years becoming progressively more derelict, with the surrounding land untended, as appears to have happened in the past. This would not be in the best interests of preserving and enhancing the Tring Conservation Area of which the site is part.

10. While the council accept that the physical effects of granting permission for the residential use to continue would be minimal, they are quite rightly concerned about the effect this would have in an area being treated as green belt on the proper exercise of development control in the future. Their concern stems from the fact that in the immediate vicinity there are open frontages on either side of the dwellings permitted in 1975, as well as an open frontage on the eastern side of the appeal site, and there are a number of buildings at the former Home Farm which could be converted into dwellings if no longer required for agriculture. It is of course a longstanding practice that each planning application should be judged on its own merits as 2 proposals are rarely absolutely identical, even though they may be comparable. Nevertheless it would be invidious to allow one proposal and refuse another unless there are some fairly significant differences as this would lead to a loss of confidence in, and dissatisfaction with, the planning system. However in my view this would be unlikely to occur in this instance if permission were granted as the effects on the appearance of the area from erecting new dwellings on the Park Road frontage would be much greater than arising from a change of use of an existing building. To some extent this applied to the development permitted in 1975 just to the east, but that site was completely enclosed by a high brick wall and was clearly distinguishable from the land in agricultural use further to the east and south. The council's argument that granting permission could lead to similar applications in respect of other existing buildings at the former Home Farm has more weight, but it seems to me that any proposals of this nature would have to be judged on their particular merits, bearing in mind that all those buildings are well away from the primarily residential area, are in an area of outstanding natural beauty outside the Conservation Area, and are in predominantly open countryside. None of these factors apply to the appeal site.

small extension on one side and a wooden porch on the other. When seen from Park Road the building, which is structurally sound, has the appearance of a small bungalow. Internally there is a living room with a sleeping area curtained off, a separate kitchen, a small workshop, and a bathroom in the extension. There is main drainage, water and electricity laid on. There is no garage, but a parking space at the rear of the building can be reached via the drive to a bungalow, "Cloud 9", occupied by the owner of the building and land subject of the appeal, whose total land holding is now some 2 ha.

5. The appellant assists the owner with agricultural and forestry tasks on the adjoining land on a part-time basis as well as helping with the garden and, when the owner is away, taking care of the bungalow, which is located well back from the road. However it is not claimed that there would be justification on the basis of the criteria outlined in the Annex to Circular 24/73 for an additional dwelling for an agricultural worker. "Cloud 9" is in fact already subject to an agricultural occupancy condition.

6. The appeal site is shown as being in an area without notation in the approved County Development Plan. In the First Review Plan it is included in an area shown as having great landscape value, and it is adjacent to the Chiltern's Area of Outstanding Natural Beauty. The site is beyond the outer boundary of the Metropolitan Green Belt but, in accordance with the modification made by the Secretary of State for the Environment, the local planning authority have exercised development control as if green belt policy applied. In the County Structure Plan, approved in 1979, there is provision for an extension to the Metropolitan Green Belt to include Tring, although the precise boundary is left to be defined in a local plan. The Dacorum District Plan, which was placed on deposit in January 1981, defines the boundary, and the appeal site is outside the urban area and within the extended green belt. Policy I of the District Plan provides that in such areas planning permission will not be granted except in special circumstances for development unless the council is satisfied that it is for the purposes of agriculture, forestry or other uses appropriate to a rural area. Lastly the site falls within the boundary of the designated Tring Conservation Area. There is apparently no written statement explaining the various features of the conservation area, but it is interesting to note that the boundary on the southern side of Park Road has been specifically drawn to include the appeal site and the lodges (now private houses) of the former Home Farm and dairy erected by the well-known Rothschild family around the turn of the last century. The remainder of the former Home Farm, including the farmhouse now renamed White Cloud Farm, is outside the Conservation Area for some reason that could not be explained to me by the local planning authority's witness.

7. There are thus more planning policies and constraints than usually apply to a single site to be taken into account in determining this appeal. I have no reason to question the application of green belt policy to the area pending the final approval of the green belt as a whole, and there must therefore be some special reason for making an exception in respect of any purely residential development. I accept the council's view about the importance of retaining the rural character which most of the area between the built-up part of Tring and the bypass road to the south still retains, especially in view of its inclusion in the Chiltern's Area of Outstanding Natural Beauty, although of course "Cloud 9" and the appeal site are outside the boundary. Lastly due weight must be given to the advice in Development Control Policy Note No. 7 and in Circulars 23/77 and 12/81 in relation to Conservation Areas.

8. However in my view the actual harm that would be caused by the continued residential use started by the appellant sometime in 1980 without planning permission would be very small. As I have already stated the building has the appearance of a