



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

Direct Line 0117-987-8927
Switchboard 0117-987-8000
Fax No. 0117-987-8769
GTN 1374-8927

Mercantile Land Development Limited
The Bell Tower
12 High Street
BRACKLEY
Northants
NN13 5DT

Your Ref:

AS-020.DOC

Our Ref:

T/APP/A1910/A/96/269421/P9

Date:

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL					
Ref	DP	DC	BC	Act	100
8 MAY 1997					
-9 MAY 1997					
Comments					

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPLICATION NO: 4/0063/96

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Dacorum Borough Council to refuse planning permission for alterations and change of use of a barn to a dwelling at Little Brownlow Farm, Little Gaddesden. I conducted a hearing into the appeal on 12 March 1997. At the hearing, an application was made by Mercantile Land Development Limited for an award of costs against Dacorum Borough Council. This is the subject of a separate letter.

2. At the hearing, it was agreed that the appeal is to be determined on the basis of drawing numbers JCH/14/10A, 11A, 12A and 13A which superseded drawing numbers JCH/14/10, 11, 12 and 13 before the application was determined by the Council. Drawing numbers JCH/14/14 and LG1.02 are for information only.

Background

3. Little Brownlow Farm comprises a roughly L shaped piece of land, of some 4 hectares, on the east side of Nettleden Road, at the southern end of the village of Little Gaddesden. The land encloses the curtilage of Little Gaddesden House on its north west and north east boundaries. That property comprises a substantial house which has been converted into 9 separate dwellings. The appeal site, containing the U shaped, single storey barn, adjoins the north east boundary of Little Gaddesden House. An access drive leading from the driveway shared with Little Gaddesden House is indicated. The whole area lies within the Chilterns Area of Outstanding Natural Beauty (AONB).

4. Between 1984 and 1992, 5 planning applications for the residential conversion of the barn have been refused, and three of those decisions have been upheld when taken to appeal. In the most recent of these, in 1990, the Inspector concluded that an alternative use for the building should not be ruled out. Nevertheless, he felt that the proposed use would damage

100%



RECYCLED PAPER

the fine rural landscape and the elegant setting of Little Gaddesden House and that there would be a lack of privacy for occupiers of 8 and 9 Little Gaddesden House and for future occupiers of the proposed dwelling. These previous decisions are a material consideration in the determination of this appeal, although they all pre-date up to date national guidance in Planning Policy Guidance 7 (PPG7) and the policies contained in the Development Plan. Furthermore, the Council has subsequently granted planning permission for the conversion of the barn for B1(a) office use. In my view, the appeal must also be considered having regard to this more recent decision to allow an alternative use.

National Policy and the Development Plan

5. Paragraphs 3.14 - 3.17 of PPG7 address the re-use and adaptation of existing rural buildings. Although the emphasis is on re-use for business purposes; the role that residential conversions have to play is acknowledged. 5 criteria are identified, against which proposals should be assessed. Annex G of the PPG provides further guidance on the subject.

6. The Development Plan for the area comprises the Hertfordshire County Structure Plan Review, Incorporating Approved Alterations 1991 (SP) and the Dacorum Borough Local Plan 1995 (LP). The policies of the Development Plan aim to protect the countryside by directing development to suitable locations and by identifying uses considered to be appropriate to the rural area. Policy 5 of the LP indicates that the appropriate reuse of redundant buildings in the rural area is acceptable. Policy 100 of the LP sets out criteria against which such proposals are to be assessed and states that non-residential uses are generally preferred. Part 5 of the Plan contains more detailed guidance on the conversion of agricultural buildings. Residential conversions are considered to generally involve most change to buildings and new residential use in the countryside is usually only allowed in a very limited number of cases.

7. In considering the reuse of existing rural buildings, neither PPG7 or the Development Plan preclude residential uses. Although policy 100 refers to 'redundant' buildings, the Council, in granting permission for office use, have accepted that an alternative use for the building would be appropriate. Furthermore Annex G of PPG7 states that it should not normally be necessary to consider whether the building is no longer needed for its present purposes.

8. Within the AONB, policy 2 of the SP and 90 of the LP indicate that the prime consideration is the preservation of the beauty of the area. Further policies of the Development Plan seek the provision of housing; high standards for development proposals; the protection of special buildings; and provide general design criteria for development.

Issues

9. Against this background, from my inspection of the site and its surroundings and from the written representations made, I consider there are two main issues in this appeal. These are:

- 1) the effect of the proposal on the character and appearance of the rural area, with particular reference to its designation as AONB; and

- 2) the effect of the proposal on the living conditions of occupiers of 8 and 9 Little Gaddesden House and of occupiers of the proposed dwelling, with particular reference to privacy, noise and disturbance

having regard to the extant planning permission for office use.

Issue 1

10. At my visit, I saw that the barn comprises an attractive brick and tile building. The simple lines and large, uncomplicated, pitched roof give it an unmistakable agricultural appearance. I found that its elevated position makes it a prominent feature in the landscape when seen from the public bridleway to the south and east. In my opinion, it stands in contrast to the residential backdrop of Little Gaddesden House and provides a transition between that development and the open countryside.

11. Although the building is loosely described as a barn, it is divided internally into a number of separate spaces. As a result, the building has more external openings than might normally be expected with a conventional, single space barn. The proposed residential conversion would involve the alteration of some of the existing openings and a limited number of new openings, including the provision of 5 small, flush rooflights. At the hearing, the Council confirmed that there was no objection to the external alterations to the building, which from the surrounding countryside, would appear similar to those approved for the office development. I find no reason to disagree.

12. Turning now to the proposed curtilage, this would be confined to the area partially enclosed by the building and the boundary with Little Gaddesden House, described as 'garden courtyard' on drawing JCH/14/10A, and to an area adjoining the north west side of the building. Activities within the courtyard would be largely screened by the existing building. On its south east 'open' side, between the gable end of the building and the boundary with Little Gaddesden House, there is a boundary wall. It seems to me that this wall could be modified, or a replacement provided, which would ensure that all activities and any domestic equipment within the courtyard would be completely screened from view. At the hearing, you agreed that this matter could be secured by way of a condition, in the event that the appeal is allowed.

13. The 'orchard' area, indicated on drawing JCH/14/10A, was excluded from the curtilage when the amended plans were submitted. Drawing JCH/14/13A, however, shows this area to be landscaped and fenced off from the remaining agricultural land, and for access to it to be retained from the courtyard. At my visit, I found this area to be particularly prominent from the surroundings. In my opinion, the works proposed would make it appear as part of the domestic curtilage which would be very intrusive in the agrarian landscape. Moreover, with access retained to it, I believe there would be a temptation for occupiers to use it as a garden. In my view it is more important for the curtilage to the dwelling to be physically defined by enclosure, rather than providing planting beyond which would blur the division between residential and agricultural use. You agreed, however, that a condition requiring the closure of the access from the courtyard would be acceptable. Furthermore, you agreed that the landscaping works to the 'orchard' could be omitted so that the area could be assimilated into the agricultural holding.

14. I found the proposed garden and parking area, to the north west side of the building, to be less conspicuous than the orchard from the surrounding countryside. Access and

parking for three cars is to be provided, with the remaining area laid out as garden. In the permission for the office conversion, the majority of this area would be surfaced and used for parking and servicing. I have noted that screen planting is intended for the boundaries of this area in order to limit the impact of the garden on the AONB, and that this is similar to that which was proposed to screen the office car park. I accept that it is not possible to ensure that this planting is retained in the long term, but this is equally true of the planting in the office scheme. It is my opinion that the use of this area for office parking and servicing would present a far harsher intrusion into the rural landscape than the proposed garden and parking for the dwelling. Furthermore, although some domestic equipment might be located in this area, the provision of sheds and glasshouses could be restricted by the removal of permitted development rights.

15. Any outward evidence of the residential occupation of the barn would be likely to emanate from the use of this north west garden area. The Inspector, determining the 1990 appeal, was concerned about the impact of the parking of cars, the construction of paths and driveways, and the provision of washing lines etc. on the appearance of the site. The approved office use would, however, involve a greater amount of parking and the construction of a similar access drive and much more extensive, surfaced areas. I consider it unlikely that the occupiers of the proposed dwelling would cover the whole of the garden with washing lines, garden furniture and play equipment and these items would, to my mind, be less intrusive than parked cars.

16. Although it was suggested at the hearing that the office use would be low key, there are no restrictions on the method, or on the hours or days of the operation. In my view, the office use has the potential to create a considerable amount of pedestrian and vehicular activity. It seems to me that the activities associated with a single dwelling would be likely to cause less impact on the quiet character of the area. At the hearing, it was argued that the identified garden areas would be too small, which would lead to pressure for an extension of the curtilage. In my opinion, however, the two areas would provide sufficient space for normal domestic activities such as the drying of washing, sitting out and for children to play.

17. Drawing together my findings on the first main issue, I believe that the proposal would have a limited impact on the surrounding countryside and that this would be less than would result from the approved office use. I, therefore, conclude that the development would not harm the character or appearance of the rural area. There would be no conflict with the policies which seek to preserve the AONB, nor with the purpose of its designation.

Issue 2

18. Looking first at the relationship with No.8 Little Gaddesden House, I saw at my visit that the garden of that property adjoins the courtyard of the proposed dwelling and that the wall of No.8, containing habitable room windows, is only some 9 metres from the boundary. There would be no loss of privacy for occupiers of No.8 as a result of the proposal, since the only first floor facing window in the proposed dwelling would light a bathroom. A condition could be attached, if the appeal were to be allowed, requiring this window to be obscurely glazed and fixed shut. The first floor windows in No.8, however, light two bedrooms and a bathroom and I saw that these look directly over the courtyard and courtyard elevation of the barn. Although there would be a lack of privacy for users of the courtyard, I consider that this would be acceptable, bearing in mind that there would be another, more private, garden area available to the north west. Furthermore, views from the first floor of No.8 to courtyard facing windows in the proposed dwelling would not, to my mind, be unacceptable,

since these windows would mainly light circulation space. The only habitable room window facing the courtyard would be a sitting room window which would be at right angles to No.8, and thus not directly overlooked. In my opinion, therefore, there would be adequate privacy for the occupiers of the proposed dwelling.

19. Noise from domestic activities within the courtyard would be heard by occupiers of No.8. Nevertheless, I consider that it is normal for gardens of residential properties to adjoin one another and for activities within gardens to be heard by occupiers of neighbouring properties. Indeed, the gardens of the dwellings in Little Gaddesden House have common boundaries. The landscape scheme includes a buffer of planting to supplement that existing, and to distance activities in the courtyard from the boundary. Furthermore, I note that the entrance to the approved offices would be from the courtyard, and that the majority of the office windows would face this area. In my opinion, the activities associated with the office use, particularly during the summer months when windows might be open, could potentially be more disturbing for the occupiers of No.8.

20. Looking next at the relationship with No.9 Little Gaddesden House, only a small corner of the garden adjoins the courtyard and disturbance from activities within that area would be limited. A first floor bedroom window affords views over the courtyard but I consider this would not significantly increase the overlooking that would occur from the first floor windows of No.8. The garden of No.9 also adjoins the proposed north west garden area and domestic activities within this area, including the arrival and departure of cars, would be heard by occupiers of No.9. Nevertheless, in my view, the disturbance from the use of this area as an office car park, and for servicing, would be far more disturbing, particularly as there is no restriction on hours or days of use of the offices. The proposed access drive wraps round the garden of No.9, but again I am of the opinion that it would be more intensively used if the office use were to be implemented. Some screen planting exists between the two gardens and further planting is proposed to keep activities away from the boundary.

21. On the second main issue, and having regard to the permission for office use, I conclude that the proposed development would not harm the living conditions of occupiers of 8 or 9 Little Gaddesden House or of occupiers of the proposed dwelling.

Conclusion and other matters

22. In view of my findings on the two main issues, I intend to allow your appeal. Although I have reached different conclusions than the previous Inspectors, I have looked at the proposal on its own merits, having regard to the Development Plan and all other material considerations, which include the extant office permission. Furthermore, it is my view that there would be no conflict with the criteria for the re-use of buildings contained in PPG7 nor with the criteria contained in policy 100 of the LP.

23. I have carefully considered the draft obligation under Section 106 of the Town and Country Planning Act 1990 (as substituted by Section 12 of the Planning and Compensation Act 1991), that you submitted. This provides, briefly, that permitted development rights on the adjoining agricultural land shall be withdrawn; that the agricultural land shall be kept free from domestic use; and that the timber clad agricultural buildings shall be stained dark brown. Circular 1/97 gives advice on the proper use of planning obligations. They should be directly related to the proposed development and should only be sought where they are necessary to make a proposal acceptable. With regard to the first provision, an alternative

use for the building has already been accepted without concern that the loss of the agricultural use would lead to demand for further farm buildings. I therefore consider the removal of agricultural permitted development rights to be unnecessary. I also find the second provision to be unnecessary, since the extension of the residential use onto the adjoining agricultural land would involve a material change of use requiring planning permission. The final provision appears to me to be unrelated to the proposed development and is also unnecessary.

24. On the matter of conditions, I have dealt with the provision of a screen wall on the south east side of the courtyard, the closure of the access from the courtyard to the 'orchard', the omission of the 'orchard' landscaping and the removal of permitted development rights for curtilage buildings. I have carefully considered the other conditions suggested by the Council. Due to the sensitive location of the site within the AONB, those requiring details of materials to be approved, windows and doors to be constructed in timber and the landscape works to be implemented and maintained are necessary. Those requiring the submission of details of hard and soft landscaping are, however, unnecessary, since these details are shown on drawing JCH/14/13A. Although I consider that it is appropriate to remove permitted development rights to protect the character and appearance of the area, Class B is already excluded since the site is within the AONB. With regard to the condition relating to the roof lights, you expressed concern at the requirement for non-reflective glass. It was however agreed that this could be the subject of subsequent negotiation with the Council. Although a brick wall on the boundary to No. 8 might be desirable, I believe the existing fence provides an adequate form of enclosure. I have reworded the conditions to reflect the discussion at the hearing and for clarity and certainty, in accordance with the model conditions set out in Circular 11/95.

25. I would confirm that my decision has not been influenced by the list of residential conversions allowed by the Council, which was submitted at the hearing. In the absence of detailed knowledge of any of those cases, I have not been able to draw any meaningful comparison. Furthermore I find the particular circumstances of this case to be sufficiently distinct, that my decision will not prejudice the Council's consideration of future development proposals. I have taken into account all other matters raised at the hearing and in the written representations, but nothing is sufficient to outweigh the considerations which have led to my decision.

Decision

26. For the above reasons and in exercise of powers transferred to me I hereby allow this appeal and grant planning permission for alterations and change of use of a barn to a dwelling at Little Brownlow Farm, Little Gaddesden in accordance with the terms of the application (No 4/0063/96) dated 16 January 1996 and drawing numbers JCH/14/10A, 11A, 12A and 13A, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. no development shall take place until details of the materials to be used for the repair and alteration of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;
3. all external doors and windows shall be constructed of timber

4. all hard and soft landscape works, within the application site outlined in red on drawing number JCH/14/10A, shall be carried out in accordance with the details shown on drawing number JCH/14/13A. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority. If, within a period of 5 years from the date of planting of any tree or shrub, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted, or destroyed or dies, (or becomes, in the opinion of the local planning authority, seriously damaged or defective,) another tree or shrub of the same species and size as originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation;

5. no development shall take place until details of the rooflights, including the method of glazing, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;

6. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no building, structure or alteration, permitted by Class A, C, D, E, F, G and H of Part 1 of Schedule 2 to the 1995 Order shall be carried out;

7. the dwelling shall not be occupied until a means of enclosure on the south east boundary of the site has been constructed in accordance with details to be submitted to and approved in writing by the local planning authority. Such details shall include the closure of the access between the site and the land to the south east;

8. the first floor window in the gable end of the south west elevation of the building shall not be glazed other than with obscure glass, and shall be permanently kept fixed shut.

27. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

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

Yours faithfully



B M Campbell BA(Hons) MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

- Mr D Collins - Appellant, Mercantile Land Development Limited, The Bell Tower, 12 High Street, Brackley, Northants NN13 5DT
- Mr K J Wallace - Appellant, Mercantile Land Development Limited
Dip Arch RIBA
- Mr M Oates - Appellant, Mercantile Land Development Limited

FOR THE LOCAL PLANNING AUTHORITY

- Mrs H M Higenbottom - Senior Planning Officer
BA(Hons) MRTPI

INTERESTED PERSONS

- Councillor E Roe - Little Gaddesden Parish Council
- Dr M Saunders - 8 Little Gaddesden House, Little Gaddesden, Berkhamsted, Herts
- Mrs M J Lishman - 9 Little Gaddesden House, Little Gaddesden, Berkhamsted, Herts
- Mr G Eccles - 3 Little Gaddesden House, Little Gaddesden, Berkhamsted, Herts

DOCUMENTS

- Document 1 - List of persons present at the hearing
- Document 2 - Letter of notification of the appeal
- Document 3 - Letters of representation
- Document 4 - Appendices 1-9 to Appellant's statement
- Document 5 - Annexes A-G to Council's statement

Document 6 - Supporting information presented by the appellant

Document 7 - Letters dated 28 March and 9 April 1996 from the Appellant to the Council, submitted by the appellant in connection with the costs application

PLANS

Plan A - Application drawing JCH/14/10A

Plan B - Application drawing JCH/14/11A

Plan C - Application drawing JCH/14/12A

Plan D - Application drawing JCH/14/13A

Plan E - Drawing JCH/14/14 for information

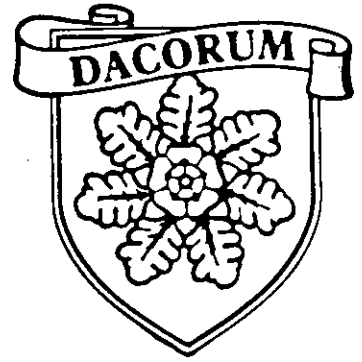
Plan F - Drawing LG1.02 for information

Plan G - Superseded drawing JCH/14/10

Plan H - Superseded drawing JCH/14/11

Plan I - Superseded drawing JCH/14/12

Plan J - Superseded drawing JCH/14/13



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/0063/96

Mercantile Land Development
The Bell Tower
12 High Street
Brackley, Northants
NN13 5DT

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

Little Brownlow Farm, Nettleden Road, Little Gaddesden

CONVERSION OF BARN TO DWELLING

Your application for *full planning permission* dated and received on 18.01.1996 has been *REFUSED*, for the reasons set out on the attached sheet(s).

Director of Planning

Date of Decision: 18.04.1996

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/0063/96

Date of Decision: 18.04.1996



The relationship between the proposed dwelling and the nearest dwellings in Little Gaddesden House is unsatisfactory by virtue of their closeness and the lack of separation between their respective living areas which would result in a lack of privacy to the dwellings contrary to Policy 8 of the Dacorum Borough Local Plan. Furthermore, the creation of a residential curtilage around the building and the inevitable and uncontrollable evidence of residential occupation would alter the character of the building and its setting in the rural landscape contrary to Policy 8 of the Dacorum Borough Local Plan.