

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

IN THE COUNTY OF HERTFORD.

To Webbex Limited Sanders Norman
Thistle Road 38 The Mall
Windmill Road Trading Estate Ealing
Luton London W 5
Beds

Use of land as Garden centre and restaurant.
at Friars Wash, Watling Street, Flamstead.

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 refuse the development proposed by you in your application dated 4th January 1985 and received with sufficient particulars on 22nd January 1985 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:-

- (1) The site is within the Metropolitan Green Belt on the adopted Dacorum District Plan wherein permission will only be given for development for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is therefore unacceptable.
(2) The site is within an Agricultural Priority Area, and the development proposed is contrary to the provisions of Policy 9 of the adopted Dacorum District Plan.
(3) The proposed development would constitute an undesirable intrusion into an existing open area adversely affecting its character. The proposal involves the removal of existing hedges and trees, and insufficient provision is made for landscaping and screening of the proposed development in order to minimise its impact on the surrounding areas of open countryside.
(4) The Secretary of State for Transport directs that permission be refused because the arrangement of the access onto the A5 trunk road of the proposed development is not conducive to maintaining the safety and free flow of traffic.

Dated 14th day of March 1985.

Signed [Signature]

Chief Planning Officer

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.



Departments of the Environment and Transport

Eastern Regional Office

Charles House 375 Kensington High Street London W14 8LE

Telephone (

01-605 9430 ext

GTN 2570

1) J/S
2) EPO
3) [Signature]
4) [Signature]

Ref.		Ack.	
C.P.O.H.		Admin.	File
Received		1985	
Your Reference Comments TW42/1.01/RS/CMP Our reference APP/41010/A/85/031502 Date			

Sanders Norman Limited
38 The Mall
Ealing
LONDON
W5 3TU

- 4 OCT 1985

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36
APPEAL BY WEBSEX LIMITED
APPLICATION NO: 4/0084/85

- I am directed by the Secretary of State for the Environment to refer to your clients' appeal against the decision of Dacorum Borough Council to refuse planning permission for the use of land at Friar's Wash, Watling Street, Flamstead, Hertfordshire as a garden centre and restaurant.
- The written representations made in support of the appeal together with those of the Council, the Department of Transport, Flamstead Parish Council and a third party have been considered. A Planning Inspector has visited the site and has furnished a description of it. A copy of his report of the site visit is annexed to this letter.
- It is noted that the application is for a change of use of land to a garden centre and restaurant but that there is some dispute between the parties as to whether this is an application for outline or full planning permission. As the Council correctly point out, applications for change of use cannot be made in outline, but this application also involves the erection of buildings for which few details have been given. In the circumstances, the Secretary of State has decided to treat this application in two parts, firstly as an application for the change of use of land to garden centre and restaurant and secondly, as an outline application, with the details of access only shown, for permission to construct the associated buildings. If outline permission is granted on the second part of the application, a further application will have to be made to the local planning authority for the approval of the 'reserved matters'.
- It is also noted that the Parish Council have referred to the possible need to re-route a bridleway allegedly affected by the proposal and that your clients have indicated a willingness to carry out such re-routing if necessary. Subsequent investigation has, however, shown that the bridleway in the vicinity would not be encroached upon.
- On behalf of your clients you submit that whilst the site is within the Green Belt, nevertheless the proposed garden centre and restaurant is an appropriate use for this site by a busy road junction. You point out that the site is surrounded by commercial activities and contend that possibly it should not have been included in the Green Belt. You see the scheme as an alternative to the motor transport hotel, allowed in 1983 on appeal and point out that the Inspector, in his decision to allow the hotel, stated that it would not involve a material loss to agriculture. You take the view that garden centre uses do not fall readily into any of the classes of the Use Classes Order and so,

whilst they are retail operations, you maintain they cannot be easily located on a conventional retail site. You feel that the impact of such a use would be significantly less than the hotel and that a garden centre would be entirely suitable to both the location and the changing needs of the surrounding communities. You note that in DOE Circular 22/80 it is stated that the Government are keen to encourage small businesses and that many can be carried on in rural areas without causing unacceptable disturbance. In addition, you consider there is a need for economic activity to provide employment and keep a viable and balanced community. You draw attention to the low-lying nature of the site and to the fact that it is mainly visible from a restricted area, that it will be landscaped and that although the existing hedgerow along the A5 road frontage will have to be removed to provide proper access, it will be replaced when the new access to the roundabout is effected.

6. You claim that the proposed development needs to be sufficiently visible to advertise its presence to drivers on the A5, so as to present less danger from vehicle-drivers trying to locate the premises for the first time. You point out that the Department of Transport have indicated an acceptable access position to and from the A5 which follows closely that already allowed on appeal and in any case it is only intended to form a temporary access direct to the A5 until a new roundabout junction at the M1/A5 slip road is constructed. The provision of a large number of parking spaces has been incorporated to prevent any overspill onto the A5. You also say there would probably be no difference in the amount of traffic from that generated by the proposed hotel and that this proposal would result in a more even spread throughout the day. Your clients have expressed no objection to the planning conditions suggested by the Council.

7. For their part, the Council argue that the scheme would be contrary to the well-established Green Belt, agricultural and rural policies which apply to this area. The site ought therefore to be kept open as neither the garden centre nor the restaurant can be considered acceptable exceptions to these policies of restraint since no special justification in support of this appeal has been put forward. They also feel that the visual and environmental consequences of the scheme would be unacceptable, situated as it would be in a prominent roadside location. In their view it would only serve to extend the already visually poor development located along the A5 to the north-west, constituting more urban intrusion and further erosion of the rural quality of the countryside in this area.

8. In addition, they claim that the amount of traffic likely to be generated would seriously prejudice the safety and free flow of traffic on the A5. The volume and fast speeds of traffic on this stretch of road, combined with the numerous junctions in the neighbourhood, already present hazards to drivers and they contend that the scheme would add to these hazards to an unacceptable degree. Each scheme must be treated on its own merits they feel, and this one attempts to 'ride on the back' of a previous permission. Although the site cannot readily be used for arable land, they say that it still has some agricultural or related use. Furthermore, in their opinion, insufficient screening is to be provided to soften the environmental impact and this is made worse by the proposed removal of the front hedge and replacement by a boundary wall. This scheme allows for nearly 2½ times as many vehicles as the hotel scheme and the Council feel there would be more concentrated traffic at weekends than for a hotel. They have sought the imposition of various conditions if the appeal is allowed.

9. The Department of Transport directed that permission be refused because the arrangement of the access onto the A5 trunk road as shown was not conducive to maintaining the safety and free flow of traffic. However, they say that if the access arrangements for the scheme are altered to their satisfaction, then they would no longer direct refusal of the application. Nevertheless, they take the view that the provision of 200 parking spaces represents a very intensive use and that it would be better to allow the restaurant part of the scheme to be built only after the proposed roundabout at the M1/A5 slip road has been constructed. However, no time-scale has been set for this roundabout scheme

and for the present they consider there should be only one access point to the A5, located at the north-western end of the site.

10. Representations objecting to the proposal were made by Flamstead Parish Council and one third party with premises adjoining the appeal site. Their objections related to access problems, traffic hazards, over-provision of car-parking spaces and duplication of gardening services in the area.

11. On the basis of the evidence presented by the parties and the Inspector's appraisal, it is clear that the major considerations in this appeal are the impact of the proposed development on this part of the Metropolitan Green Belt and the effect of the development on the free-flow of traffic along the A5. The Secretary of State fully endorses the Inspector's view that the proposed development would significantly and harmfully change the landscape at this critical point in the Green Belt. Only in exceptional circumstances can Green Belt policies be overridden and whilst the Secretary of State is aware that his Inspector granted planning permission on appeal for a hotel on this site in 1983, he is not convinced that in the current case, evidence warranting such exceptional treatment has been presented. In addition, the Secretary of State does not consider that the Department of Transport's objection can be overruled because he accepts their view that the proposed access arrangements would have a damaging effect on the safety and free flow of traffic at this point on the A5 trunk road. Any application showing different access arrangements would have to be considered initially by the local planning authority in the usual way.

12. For the reasons given, therefore, the Secretary of State hereby dismisses your clients' appeal.

I am Gentlemen
Your obedient Servant

MISS J A BRIERLEY
Authorised by the Secretary of State
to sign in that behalf.

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

File Ref: APP/A1910/A/85/031502

To The Right Honourable Patrick Jenkin MP
Secretary of State for the Environment

Sir

I have the honour to report that on 20 August 1985 I made an accompanied site visit into an appeal by Webbex Ltd under Section 36 of the Town and Country Planning Act 1971 against the refusal of the Dacorum Borough Council to permit the construction of a Garden Centre and Restaurant on land at Watling Street, Friars Wash, Flamstead.

1. This report contains a description of the appeal site and surroundings and my appraisal of the likely impact of the proposed development. A list of persons present at the site visit follows.

THE SITE AND SURROUNDINGS

2. The appeal site is an area of unused farmland which lies alongside Watling Street, classified as A5, immediately to the west of the intersection of M1 and A5 at Friars Wash. The motorway crosses Watling Street at high level and a slip road from the north-bound carriageway of M1 runs down to form a junction with Watling Street. The appeal site adjoins this junction and runs alongside Watling Street in a north westerly direction to the small cluster of roadside developments which constitute Friars Wash. Adjoining the appeal site on its north western boundary is a small vehicle storage area with the Eastern Counties Farmers' Agricultural Depot to the north west of that, also fronting onto Watling Street. Further to the north west on the opposite side of Watling Street is a large garage and transport cafe.

3. The line of Watling Street corresponds generally with the line of the level bottom of a shallow valley. Land rises gently to the north east of Watling Street and rather more steeply to the south west of the road. The site is thereby in view over quite an extensive area and is noticeable from Watery Lane to the north also the motorway and its northbound slip road. The site boundary along Watling Street has, at present, a dense growth of mixed hedgerow shrubs to a height of some 12 ft and several tall mature ash and willow trees. The south western boundary of the site has a tall hedge and many mature trees. The north western and south eastern boundaries have only broken hedgerow growth. On the opposite side of Watling Street is the Friars Wash Pumping Station together with an associated pair of houses built in 1956 and now presenting a mature appearance in the landscape with good hedge and tree growth on and around the site. Landscape planting along the western flank of the motorway is now in a semi-mature state and contributing to the weight of vegetation in the locality as well as screening the motorway.

4. From Watling Street and the surrounding area the appeal site appears as part of the rural landscape which runs alongside this part of the motorway and forms a green buffer between the motorway and the developed area of Friars Wash which has grown up as a long ribbon of commercial and residential development alongside Watling Street. The commercial development around the junction of Chequers Hill with Watling Street comprising the garage and transport cafe on the north eastern

side of the road and the Eastern Counties Farmer's Depot on the south western side is a particularly discordant visual element on the rural edge of Friars Wash. The small vehicle depot between the Farmers Depot and the appeal site takes some advantage from the dense roadside tree and hedge screening which is on the roadside frontage of the appeal site and continues along the access drive to the site which runs between the vehicle depot and the roadside.

APPRAISAL

5. The appeal site lies within a Green Belt and at a most critical point in the Green Belt. The visually pronounced and discordant commercial ribbon development of the eastern side of Friars Wash has spread along Watling Street in the direction of the motorway junction. The appeal site is now the only rural buffer between the present end of the ribbon development and the motorway. Were this buffer to be lost the ribbon development would extend right up to the motorway and a powerful visual link would be forged between significant man-made elements in this rural landscape. This would significantly and harmfully change the nature of this landscape by establishing and linking prominent development elements in the landscape along the floor of this shallow valley. These elements would establish visual demarcations in the landscape which would disrupt the pattern of the landscape and challenge the existing rural nature of the area.

6. The sketch proposals for the garden centre and restaurant propose the removal of the existing roadside hedge and trees and their replacement by a wall and flagpoles. This would of course draw attention to the site and allow views of the various colourful constructions, stores and displays on the site. The proposal would be a linear, urban type of development which would be badly placed on the rural edge of Friars Wash and would be severe in the harmful visual effects it would manifest on this piece of countryside. Only an overriding need of the highest order could excuse the visual damage which this proposal would do to this sensitive and significant piece of landscape. Any development in this narrow green buffer would be damaging to the landscape but this proposal would be particularly damaging because of the nature of the proposal and the high visibility factor it requires for commercial viability.

7. Watling Street is a single carriageway road at this point and carries a high volume of traffic with a large commercial content. Vehicle movements in and out of the appeal site would interrupt the smooth flow of traffic along the road. Visibility however is good, this section of road being practically straight.

I have the honour to be
Sir
Your obedient Servant

T R SENIOR RIBA ALI
Inspector

31 August 1985

Persons present at the site visit:

Representing the Appellant: Mr A Sanders
Mr N Sanders
Mr Newcombe

Representing the Council: Mr Noble



TEAM 2

12688

Department of the Environment

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CHIEF EXECUTIVE OFFICER
17 MAY 1985
File Ref.
Refer to CPO 17/5
Cleared

Chief Executive
 Civic Centre
 Hemel Hempstead
 Herts. HP1 1RH

Your reference

4/0084/85

Our reference					
PLANNING DEPARTMENT					
DACORUM					
Date 16 MAY 1985					
Ref. 16 MAY 1985					
C.P.O.	D.P.	B.C.	B.C.	Admin.	File
Received			17 MAY 1985 COPY SENT		
Comments			MB CB TW		

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1971
 APPEAL BY *Webber Ltd*

1. I enclose a copy of an appeal made to the Secretary of State under Section 36 of the 1971 Act. The Council should now complete the questionnaire in respect of this appeal, and return it to me within the next 14 days.

2. The appellant has agreed to adopt the written method. If you agree to this procedure, please submit the Council's statement within four weeks from the date of this letter. You should send a copy of the statement direct to the appellant, or agent and confirm to me that you have done this.

3. The Council should notify immediately local residents and others (eg Parish Councils and Preservation Societies) who may be affected, including those persons or bodies who made representations at application stage. The precise form of notification is for the Council to decide; but the following points are particularly important, and we therefore suggest that the letter indicates:

the location of the site and a description of the appeal proposals;

that the appeal is being dealt with by the written procedure;

that they may make their views known by writing to Room 15/06 at the Department's Bristol Offices, not later than 4 weeks from the date of this letter, quoting the Department's reference number; but that these may only be taken into account if they are disclosed to the Council and the appellant. (With this in mind, you may consider suggesting that it is very helpful if they can provide 2 additional copies which we can forward quickly);

where the appellant's grounds of appeal (on Form TCP201) can be inspected;

where, and approximately when the Council's statement will be available; interested persons should be asked to check by telephone that it is ready before coming to inspect, and advised that they should not delay submitting their own representations if the statement is not available;

that we will send a copy of the decision letter on the appeal only to those who ask for one;

The Council's statement should include copies of the notification letter, and a list of the names and addresses of those to whom it was sent.

4. Can I draw the Council's attention to paragraph 11 and Table 1 of Circular 38/81, concerning the recommended format for the Council's statement. It is important that the Statement clearly identifies the planning policies on which the Council have relied; and you are asked to ensure that the statement indicates, in respect of the site,

whether or not the old Development Plan has been revoked;

the current structure plan situation, including any proposals for alteration or amendment, and the stage these have reached;

the current local plan situation, including subject or action area local plans, any proposals for alteration etc and the stage reached.

5. We shall be looking for the co-operation of all parties in keeping as closely as possible to the time limits set out in the timetable for written representations appeals in Circular 38/81. Please let me know immediately if you anticipate difficulty in submitting your statement within 4 weeks.

Yours faithfully

JG
PP
MRS H. T. PRICE