



Department of the Environment
Room 1308
Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 856
Switchboard 0272-218811
GTN 2074

Cpo

Messrs John D Statham and Partners EXECUTIVE
Surveyors and Design Consultants
Field End Cottage
Shooters Way
Berkhamsted
Hertfordshire

11 JAN 1982

Your reference JDS/CP

Our reference T/APP/5252/A/81/11071/G8

Date 27 JAN 1982

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 SECTION 36 AND SCHEDULE 9
APPEAL BY MESSRS K P H PROPERTY CO LTD
APPLICATION NO:- 4/0123/81

347

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for the conversion of brick stable and storage building to cottage and erection of a garage at the rear of 8 - 14 Malting Lane, Aldbury. I have considered the written representations made by you, the council, the parish council and those made by interested persons. I inspected the site on 30 November 1981.

2. From my inspection of the appeal site and its surroundings and from the written representations made, I am of the opinion that the main issues in this case are, first, whether the relevant provisions of the Dacorum district plan should here be maintained, second, whether the proposed development would be harmful to the living conditions of nearby residents and, third, whether there would be any objection to the proposed development on traffic or parking grounds.

3. The appeal site, which occupies an area of some 3463 sq ft, is situated to the rear of older terrace houses at Nos 8, 10, 12 and 14 on the south side of the residential cul de sac Malting Lane, about 1/4 of a mile south of the village centre. The site is accessible from Malting Lane at an unmade, shared access situated directly between Nos 14 and 16 which serves the rear of Nos 8, 10, 12 and 14 and an associated garden area to the south of the appeal site. The site is adjoined on the west by the curtilage of No 6, on the east by a proposed footpath and the curtilage of No 16 and, on the south, beyond the garden area, by the rural countryside.

4. I note that the proposed development is described at question 3 of the planning application under appeal as "conversion of brick stable and storage building to cottage and garage" and, at question 3(c) which refers to "full planning permission, including changes of use", as "yes and change of use". In view of the definition of use of land in section 290 of the Town and Country Planning Act 1971, it appears that the proposed development has been wrongly described as a change of use in the planning decision. I therefore propose to treat the planning application under appeal as a detailed application to convert the existing brick stable and storage building to a cottage and to erect a garage, a screen wall and a 6 ft close boarded fence.

5. It has been argued on behalf of your clients that they own Nos 10 and 14 and the relevant garden plots to the south of the appeal site which go with these

cottages. Planning approval had been issued for the erection of 3 houses within 300 ft of the appeal site and these houses were being offered for sale. Since none of the houses fulfilled an agricultural need, their approval would appear to be a departure from the green belt policy which comprised the first reason for refusal in the planning decision under appeal. The 2 storey building under appeal, however, had stood empty for some 40 years and its conversion in the manner proposed would be in keeping with the adjoining residential development.

6. If the building were to continue in use as a stable and storage building, or as a garage, the movement and parking of vehicles which could be generated by such uses would constitute a far greater nuisance than the traffic which would be created by the proposed conversion. Furthermore, the proposed development would not make any significant difference to the residential amenities now enjoyed by the occupants of nearby dwellings. It would be far better to look at a building which had been pleasingly restored than the existing building shown in the 4 submitted photographs. Moreover, the proposed conversion would enhance the character and appearance of the Aldbury conservation area to a greater extent than the erection of new houses.

7. The District Council have argued that the Dacorum district plan, now on deposit, relates the strategic policies of the approved Hertfordshire structure plan to a detailed, local level. The district plan indicates that the appeal site is situated to the north of the green belt boundary in an area where Policy 2 applies. The effect of Policy 2 is that planning permission would not be granted, except in very special circumstances, for development unless the District Council is satisfied that the development is needed for one of the 3 purposes specified in Policy 2 of the approved Hertfordshire structure plan, which are agriculture, small scale facilities for participatory sport or other uses appropriate to a rural area. In the absence of any such need, the proposed development was unacceptable.

8. The appeal site lies within the Aldbury conservation area and within the Chilterns area of outstanding natural beauty. Policy 4 of the district plan, which restricts development for housing purposes in any rural settlement, specifies that development may be permitted only for uses appropriate to the rural area, namely the housing needs of the rural part of the district, the employment needs of agriculture, forestry and rural services and the local facilities and service needs of the area. Policy 5 identifies Long Marston and Markyate as villages beyond the green belt where small scale residential development within the main core would be allowed and Policy 63 refers to the need to concentrate new housing development in the urban areas of Hemel Hempstead, Berkhamsted and Tring.

9. The parish council and the interested persons have pointed out that the ground level of the proposed conversion is above that of the terrace houses to the north. The proposed windows would be situated some 16½ ft from No 6. The proposed 6 ft close boarded fence, moreover, would be positioned directly in front of the kitchen window and about 4 ft from the bathroom window at No 10. The views now enjoyed by the occupants of nearby dwellings would be reduced. If, as could be the case, Nos 8, 10, 12 and 14 were to be occupied by 2 car families, the proposed development would deny an adequate degree of parking space and this would lead to the nuisance and danger of further parking along Malting Lane.

10. On the first issue in this case, I am of the opinion that, taking into account the existing residential development, first, along Newground Lane to the

north-west of the appeal site and, second, at the south-west end of Malting Lane (which includes the 3 recently constructed dwellings at Nos 42, 44 and 46 which have been referred to by your client), the appeal site is situated within the main built-up framework of Aldbury. I consider, however, that the proposed development would be harmful to Policies 2, 4, 5 and 63 of the Dacorum district plan which collectively propose, in the public interest, a restriction on all housing development of a general character, such as the proposal under appeal, in the rural settlement of Aldbury and the direction of such development to other selected rural and urban centres.

11. In respect of the second issue, I note from the application plan that in the absence of any fenestration in the proposed north elevation, there would be no direct overlooking between the windows of the proposed house and the terrace houses at Nos 8, 10, 12 and 14. I have no doubt, however, that there would be a material overlooking of the rear garden of No 6 from the ground floor kitchen and living room/dining room windows and from the second bedroom window in the proposed west elevation at viewpoints situated above the level of the 4 ft brick wall and the 4 ft close boarded fence, which here mark the common boundary of the appeal site and No 6.

12. I am of the opinion that there could be a significant overlooking of the ground floor living/dining room window and the second and third bedroom windows in the proposed east elevation from a first floor window measuring about 8 ft by 3 1/2 ft in the rear elevation of No 16, which is no more than 56 ft away. Furthermore, I consider that the noise and disturbance of any additional traffic using the narrow access from Malting Lane, such as could be generated by the proposed dwelling, would be harmful to the living conditions of persons on the premises of Nos 12, 14 and 16. On this point, I consider that the proposal would constitute a quite unacceptable form of backland development.

13. I have looked carefully at the objections of the parish council and the interested persons. I accept that the proposed garage and 6 ft close boarded fence could obstruct those views towards the rural countryside which are now enjoyed by some adjoining residents. I do not consider, however, that such views are held as of right under the Town and Country Planning Act 1971. Regarding the line of the proposed 6 ft close boarded fence, I noted during the site inspection that the fence would, at a distance of some 10 ft from the nearest part of No 10, cause a material sense of enclosure and restriction among persons on those premises, and significant loss of natural light to the existing ground floor bathroom window at that address.

14. Regarding the third issue, I accept that your clients may have an established right to use the access from Malting Way, as may the occupants of Nos 8, 10, 12 and 14. I noted during the site inspection, however, that, first, the access between Nos 14 and 16 diminishes in width from about 12 ft to 7 1/2 ft, (which is insufficient to allow 2 cars to pass in safety), second, the access has no properly laid out turning head and, third, there is no segregated footpath system. On these points, I consider that the additional vehicular and pedestrian traffic which could be generated by the proposed dwelling would here add unacceptably to the existing levels of congestion and danger along the access.

15. I am of the opinion that such additional vehicular traffic could also affect the use of the access by the occupants of Nos 8, 10, 12 and 14 for parking purposes. Moreover, I consider that such parking could then be transferred to Malting Lane itself where the carriageway is between about 15 and 16 ft wide and where no continuous footpath system exists, to the further detriment of the free

and safe flow of vehicular and pedestrian traffic. I have considered all the other matters which have been raised in the written representations, including the 3 recently constructed houses at the south-west end of Malting Way. In my opinion, however, they are not sufficient to outweigh the considerations which have led me to my decision.

16. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen,
Your obedient Servant

~~M. Hyslop~~
M HYSLOP CBug DipTP FIMunE MRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To K. P. H. Property Co.Ltd.,
238 Waterside,
CHESHAM,
Bucks.

Messrs. John D. Statham & Partners,
Portway House,
57 Portway,
North Marston,
BUCKINGHAM,
MK18.3PL.

Change of use from stable and storage building
to dwelling
at the rear of 8/14 Malting Lane, Aldbury, Nr. 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 refuse the development proposed by you in your application dated 29th January, 1981, and received with sufficient particulars on 4th February, 1981, 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 lies in an area beyond the green belt on the Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use or extension of existing buildings 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 unacceptable in the terms of this policy.
2. The proposal is contrary to Policy 4 of the Dacorum District Plan.
3. The proposed use of this building would be an undesirable form of development taking no account of the layout of surrounding properties.
4. The proposed development would have a seriously detrimental effect on amenities and privacy at present enjoyed by occupants of adjacent dwellings.

Dated 19th day of March, 1981.

Signed *Colin Bamford*

Designation 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, Whitehall, London, S.W.1.) 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.