

A/77/28.1



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Mr D Clarke
19 Ashridge Close
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Your reference

Our reference

T/APP/5252/A/79/6790/G2

Date

22 FEB 1980

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR L PHILLIPS
APPLICATION NO: 4/0195/79

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 continuation of use of a storage and garage building at "Oak Bank", Bell Lane, Northchurch, Berkhamsted. I have considered the written representations made by you and by the council and also those made by Northchurch Parish Council. I inspected the site on 4 December 1979.
2. The building which is the subject of this appeal, is situated within the curtilage of your client's home. At the rear of the building is an open area used for the storage of small quantities of building materials, while the building itself is used for the storage of timber and other materials that have to be kept dry. This building was originally approved in January 1968 on a limited period basis, and has twice received further consents.
3. On the approved Hertfordshire Structure Plan the appeal site is shown to be within the Metropolitan Green Belt within which permission will not be given, except in very special circumstances for the construction of new buildings for purposes other than agriculture, small scale facilities for participatory sport and recreation, or other uses appropriate to a rural area. The site is also within an area of Great Landscape Value where special attention will be paid to the effect which development will have, and particular regard will be made to the siting, design and external appearance of such buildings.
4. The application, which is the subject of this appeal, is for a renewal of the previous consent, and from my consideration of the representations made and my site visit, I am of the opinion that the main issues in this case are whether the use complies with the policies which now affect the site, and whether there are any special circumstances which outweigh the planning objections.
5. Under the Green Belt policy uses connected with agriculture, participatory sport or recreation are normally acceptable, together with other uses appropriate to a rural area. It is clear, in my opinion, that a builder's yard is a use, which in most circumstances is not appropriate in the Green Belt. Nevertheless I think it is important to consider what effect this particular use is having on the rural area.

6. I note that the local planning authority have raised no objection on traffic or road safety grounds, and in 1977 they permitted a new access to be formed to the site from Shootersway. I do not believe, therefore, that traffic generation is a problem. The visual amenity aspect is particularly important in this case because the appeal site falls within an area of Great Landscape Value. In such areas the appearance of any proposal is of great importance, and a builder's yard, albeit a small one, is again in most circumstances inappropriate. The open storage area is however only visible from the adjoining agricultural field, not from the roads nor the adjoining property. The building itself is of a type which does not look out of place in a domestic curtilage and is not readily visible from the roads. I do not consider, therefore, that the use at present results in any material detriment to the area of Great Landscape Value, nor, since it is within a domestic curtilage does it result in the loss of any rural character.

7. You have stated that your client operates a modest business from his own home and that this business is his sole livelihood. You further stated that if he is not allowed to continue the use the success of this livelihood may be adversely affected. I do not feel that this is a particularly strong case for special treatment since I am not convinced that your client's business could not operate successfully, if less conveniently, from an alternative site.

8. However, I note that the use has been in existence for over 10 years and that no expansion is proposed. In my opinion, the use has caused no harm to the visual amenities of the area nor to the residential amenities of the adjoining occupiers, and for these reasons I consider that it would be unreasonable to refuse permission now. Nevertheless, I only find the use acceptable in its present very limited extent, and any intensification would, in my opinion, result in it becoming inappropriate, and detrimental to the area. I therefore consider that a further limited period consent personal to your client is reasonable.

9. I have considered all the other matters raised, including the point that the initial approval is considered by the local planning authority to have been somewhat unorthodox. This opinion I can understand, but I have explained above why I find the merits of this case sufficient to allow a further temporary permission.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the continuation of use of storage and garage building at Oak Bank, Bell Lane, Northchurch, Berkhamsted in accordance with the terms of the application (No 4/0195/79) dated 13 February 1979 and the plans submitted therewith, subject to the following conditions:

1. The use hereby permitted shall cease on or before the date 3 years from the date of this letter.
2. This permission for the use for storage purposes enures only for the benefit of Mr L Phillips and any company in which he has a controlling interest, whilst he occupies Oak Bank.
3. No materials shall be stored on land to the south-west or north-west of the storage building, and no materials shall be stored on the land to the south-east of the storage building to a height greater than 5 ft above the surrounding ground level.

11. 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.

I am Sir
Your obedient Servant

V. Harris

MRS V HARRIS BA DipTP MRTPI
Inspector

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

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971).

The grounds upon which an application may be made to the Court are:

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case may be, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Town Planning 4/0195/79

Ref. No.

Other

Ref. No.

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To L. Phillips, Esq.,
'Oak Bank',
Bell Lane,
Northchurch,
Berkhamsted,
Herts.

D. Clarke, Esq.,
19 Ashridge Close,
Bovingdon,
Herts.

Storage and garage building
at the rear of 'Oak Bank', Bell Lane,
Northchurch

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
13th February 1979 and received with sufficient particulars on
14th February 1979 and shown on the plan(s) accompanying such
application.

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

The proposed development, if permitted, would result in the
establishment of a non-conforming storage use in an area without
notation on the County Development Plan and so referred to in
the submitted County Structure Plan Written Statement where green
belt policies apply.

Dated 22nd day of March 1979

Signed [Signature]
Designation Director of Technical Services.

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.