

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To R. Sharp, Esq.,
Colman Croft,
Colman Green,
WHEATHAMPTON,
Herts.

P. Smith, Esq.,
1 Punch Croft,
New Ash Green,
KENT.

... Dwelling and agricultural hay store and access
.....
at land off Hollybush Lane, 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 15th February, 1979, and received with sufficient particulars on 16th 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:-

- 1. The site is without notation on the County Development Plan and in an area referred to in the submitted County Structure Plan written Statement within which there is a presumption against further development unless it is essential for agricultural or other special local needs - no justification has been proven to warrant departure from this principle.
- 2. The siting of the proposed dwelling and hay store would constitute unduly prominent and isolated intrusions into an attractive and unspoilt stretch of open countryside.

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.



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Your reference

Our reference

T/APP/5252/A/79/3953/G2

Date

- 5 DEC 79

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR R SHARP
APPLICATION NO:- 4/0214/79

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 erection of one agricultural dwelling and hayloft on land at Hollybush Lane, Flamstead. I held a local inquiry into the appeal on 11 September 1979.
2. The appeal site, which has an area of about 32 acres and a frontage of approximately $\frac{1}{3}$ mile, is located on the south-west side of Hollybush Lane, just over $\frac{1}{4}$ mile north-west of Flamstead. The site, containing grassed land divided into fields, slopes down to Hollybush Lane which runs in a north-westerly direction to meet the A5 trunk road close to the north end of the site. Opposite this road junction, there is a large hotel situated between the A5 and Watling Street. Agricultural land surrounds the site and the sewage works which adjoin its north-western boundary, continuing across the floor of the valley from Hollybush Lane to the A5. On the northern side of the A5, where the land rises again, there is a cafe and a short stretch of housing, with a ribbon of housing behind and at a higher level fronting onto Watling Street. Undulating agricultural land then continues to the north.
3. I was advised that the appeal site is without notation on the approved County Development Plan and lies within an area referred to in the submitted Structure Plan where there is a presumption against further development unless it is essential for agricultural or other special local needs. The site is close to the border of the Chilterns Area of Outstanding Natural Beauty and in an area which lies beyond the boundary of the Metropolitan Green Belt. I understand that it is not yet known whether this Green Belt will be formally extended to include the site, but it is the policy of the Council to permit only such development as would be approved in the Green Belt. Since the sub-division of Hollybush Farm, the site and adjoining land to the south has been subject to a direction under Article 4 of the General Development Order.
4. From my inspection of the site and its surroundings and from the representations made, I consider that in this case the main issues are firstly whether the proposal would be detrimental to the character and appearance of the area and secondly, whether there is an essential agricultural need for the proposal which would override any planning objections.
5. On behalf of your client you submitted that the proposed dwelling and hayloft would not be obtrusive features in this area of countryside. Constructed in materials appropriate to rural surroundings, the hayloft would be situated on the

land at a lower level in the northern part of the site. The dwelling would be at a higher level than Hollybush Lane but a screen of trees would be placed round it. Your client was however prepared to consider placing the dwelling at a lower level towards the northern part of the site and an alternative position for the hayloft near the sewage works was also possible.

6. I noted however that the proposed dwelling would be separated from Flamstead by agricultural land whilst the nearest dwellings on Hollybush Lane would be some distance away to the south-east. It would be clearly isolated in this stretch of countryside in my view, and would be visible from the floor of the valley and its northern slopes. I consider that the dwelling and its access up the hillside from the road would appear to be an intrusion into an area of high landscape value. In my opinion, even screening with trees would do little to eliminate the effect of intrusion in this area. I noted your observations regarding the development on the north side of the A5 but I cannot accept this as justifying a proposal which in my opinion would be detrimental to the character and appearance of the southern slopes of the valley.

7. Although a dwelling on the land at a lower level towards the northern end of the site would not stand out to the same extent when viewed from the level ground to the east, it would still be clearly visible from the higher ground to the north as well as from Hollybush Lane as it runs downhill from Flamstead and approaches the appeal site. Whilst I accept that in this case the proximity of other development might tend to lessen the appearance of intrusion, I consider that a dwelling on this part of the site, set in agricultural land with the ground rising behind it, would nevertheless have an adverse effect on the landscape on this side of the valley.

8. The proposed hayloft would be some distance from the dwelling and not close to any site boundary. It would be partially screened by trees on one side but in my view the effect of this screening would be likely to be reduced in winter. Visible from a wide area surrounding the site, in my opinion it would appear as an isolated building which would detract from the character and appearance of this predominantly rural area. I note however that the Council accept that this hayloft could be relocated in a less obtrusive position, subject to problems of access being resolved.

9. You also explained that your client proposed to establish an intensive livestock undertaking on the appeal site, keeping cows, pigs and chickens. The site had suffered however, from trespass, theft and vandalism owing to lack of full-time supervision. The successful development of the business required your client or his wife to be available at all times on the site. The proposed dwelling would allow him to establish the appropriate numbers of animals on the site and in due course provide buildings to accommodate them. The appeal site was regarded as a base for future expansion and your client and his wife considered that they could maintain a sufficient income from the 32 acres involved.

10. I appreciate your client's reluctance to increase at present the number of livestock on the site. You did not however give any indication of the numbers of the various types of animals which would ultimately be kept. I have noted that the Ministry of Agriculture, Fisheries and Food consider that the business proposed would not be likely to provide an adequate income for one full-time person. Under these circumstances, until the business has been developed to an extent which would indicate that it is financially viable, I consider that it would be premature to allow a permanent dwelling to be constructed on the site. In my opinion, whilst the business is being developed, a higher level of supervision than at present would be provided if your client were to find suitable accommodation nearby in Flamstead or in the area surrounding the appeal site. Temporary accommodation in a caravan on the site could also be considered.

11. I have had regard to all the other matters raised in the representations including the experience of your client and his wife in agriculture. I am satisfied however that these do not outweigh my conclusions on the planning issues involved.

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

I am Sir
Your obedient Servant

D F Binnion

D F BINNION BSc CEng MICE DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr P Smith

- 1 Punch Croft, New Ash Green, Kent.

FOR THE PLANNING AUTHORITY

Mr H Brown

- Solicitor, Dacorum District Council.

He called:

Mr A E King BA(Hons) BPl

- Assistant Planner, Dacorum District Council.

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- " 2 - Notification of Inquiry.
- " 3 - Copy of Direction under Article 4 of the Town and Country Planning General Development Order 1973.

(All documents submitted by the Council).

PLANS

- Plan A - Application Plan.
- " B - Land Use and Location Plan.

(Both plans submitted by the Council).

Department of the Environment
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RIGHT TO CHALLENGE THE DECISION

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.

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 Inspector 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 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.

RIGHT TO INSPECT DOCUMENTS

Under the provisions of rule 16(2) of the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State in writing within 6 weeks of the notification to him of the decision, for an opportunity of inspecting any documents, photographs and plans listed in the notification. Any application under this provision should be sent to the address from which the decision was issued, quoting the Department's reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days' notice should be given, if possible.