

Department of the Environment and
Department of Transport

Common Services

Room 1310

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321



11814		PLANNING DEPARTMENT		CASE EXECUTIVE	
DACORUM DISTRICT COUNCIL		14 FEB 1985		COUNCIL	
Ref.	File No.	D.C.	Admin.	File	
620	218	358	0	142	
Direct line 0272-218358	Switchboard 0272-218811	GTN 2074			
Received <i>JDW</i>		14 FEB 1985			
Comments					
Yours reference					
Our reference					
T/APP/A1910/A/84/21805/P2					
Date					
13 FEB 1985					

T J Killick Esq
The Cottage
Hudnall Common
Little Gaddesden
BERKHAMSTEAD
Herts HP4 1QW

JMB
JCB
3) JCB
4) DEAM 2

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/0234/84

- As you know I have been appointed by the Secretary of State for the Environment to determine your appeal. Your appeal is against the decision of the Dacorum District Council, to grant planning permission subject to conditions for the erection of one dwelling on land at the Cottage, Hudnall Common, Little Gaddesden, Herts. I have considered the written representations made by you and by the Council and also those made by interested persons. I inspected the site on 30 January 1985.
- The condition in dispute is No A(1) which provides that:

"The development hereby permitted shall be first occupied by Mr T J Killick and thereafter by a person solely, or mainly employed, or last employed locally in agriculture, as defined in section 290(1) of the Town and Country Planning Act 1971 or in forestry, and the dependants or the widow or widower of such person".
- I am satisfied from my site inspection that the appeal site lies in a rural area where the main occupation seems to be agriculture or forestry. There are several dwellings on large plots in the vicinity of the appeal site but otherwise the area seems to be entirely appropriate for the policies of the approved Structure Plan with regard to development in rural areas to apply. The District Plan reinforces these policies in the rural settlements. I am therefore convinced that without a special need to have been demonstrated for the dwelling for occupation by a person engaged in work appropriate and essentially located in a rural area permission for the dwelling would not have been forthcoming.
- I am in no doubt that the breeding of captive birds of prey is important, particularly for endangered species, and that it is essential for it to be carried out in a quiet rural area. In my view therefore the need for the dwelling to be reasonably near the aviaries for security was a justification for this particular permission. However, it must be accepted that the occupation is unusual and while I consider that justification exists for tying the permission for the dwelling to the use, it would perhaps be taken as unreasonable to link a building with a long life to occupation solely by a person carrying out rather unique work. However, the dwelling is clearly in a rural area where agricultural work and forestry is common and although your occupation of breeding birds of prey is not agriculture it is clearly an occupation best carried out in a rural area. It therefore seems more

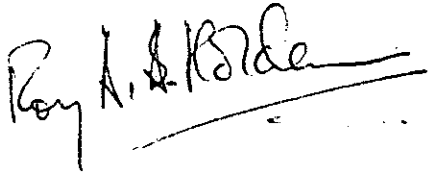
reasonable to me that the permission should be tied to a more general agricultural need rather than to your specific occupation or in fact to have no permission at all. I must therefore conclude that the disputed condition was reasonably and appropriately imposed and I see no grounds for its discharge.

5. It is open to me to discharge, alter or impose other conditions on this permission. Condition A(2) is intended to take away permitted development rights under the General Development Order. Except for the reasons stated on the permission the local planning authority have not amplified their reasons for this condition. The appeal dwelling is clearly not a listed building or within the curtilage of one or within a conservation area. Although as argued above I accept that the area is one where development is only normally allowed for agriculture or forestry I do not see why the normally permitted rights would be detrimental to the planning of this area. I am therefore not convinced that this condition is reasonable or justified and propose to discharge it.

6. I have noted all the other matters raised in the representations including your references to financial matters and the fact that your dwelling as now erected would be beyond the means of the average farm-worker, but I do not consider that these are planning matters and with regard to the other matters raised they are not of sufficient importance in my view to outweigh the considerations that have led to my decision.

7. For the above reasons, and in exercise of powers transferred to me I hereby discharge condition A(2) but dismiss your appeal with reference to condition A(1).

I am Sir
Your obedient Servant



ROY A S HOLDEN DipArch RIBA
Inspector

Town Planning
Ref. No. **4/023A/84**

Other
Ref. No.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF

DACORUM

IN THE COUNTY OF HERTFORD

To **Mr T J Killick
The Cottage
Mednall Common
Little Gaddesden**

..... One dwelling
.....
at Land at The Cottage, Mednall Common
.....

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 permit the development proposed by you in your application dated **17th February 1984** and received with sufficient particulars on **20th February 1984** and shown on the plan(s) accompanying such application, subject to the following conditions:—

~~(1) The development to which this permission relates shall be begun within a period of years commencing on the date of this notice.~~

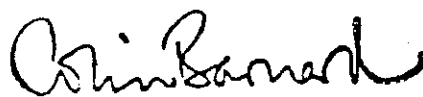
- (A) (1) **The development hereby permitted shall be first occupied by Mr T J Killick and thereafter by a person solely, or mainly, employed, or last employed locally, in agriculture, as defined in section 290 (1) of the Town and Country Planning Act 1971, or in forestry, and the dependants or the widow or widower of such person.**
- (2) **Notwithstanding the provision of the Town and Country Planning General Development Order 1977 or any amendments thereto, there shall be no extension or addition to the building hereby permitted without the express written permission of the local planning authority.**
- (B) **That the resolution to take enforcement action in respect of the contraventions of planning control be rescinded.**

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:—

~~(1) To comply with the requirements of Section 41 of the Town & Country Planning Act, 1971.~~

- (A) (1) The site is within an area where policies adopted by the local planning authority are to permit only development which is essential for agricultural or allied or other special purposes.
- (2) In order to control further development in an area where policies adopted by the local planning authority are to permit only development which is essential for agricultural or allied or other special purposes.

Dated..... 29th day of March 19... 64

Signed..... 

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, Marsham Street, 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 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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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.