

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To D B Rees (Builders) Ltd Stimpsons Planning and Architecture
Ferndale 14A St Albans Road
Church Lane Watford
Sarratt

Erection of 12 one bedroom dwelling units, 9 two	Brief description and location of proposed development.
bedroom units and associated parking (OUTLINE)	
at Site of Limba and Ommaroo, (Phase 2)	
Chesham Road, Bovington	

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
..... 5th March 1985 and received with sufficient particulars on
..... 8th March 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 development of the site for residential purposes would be contrary to Policy 65A of the Dacorum District Plan which states that applications for 10 dwellings or more on sites of less than one hectare which are not identified for residential development, may only be developed within the plan period for residential purposes if the development meets a priority housing need, or provides an appropriate planning gain. The proposal fails to meet these criteria and is unacceptable in the terms of the Policy.
- (2) The scale and density of development proposed is excessive and unwarranted in this location and would, if permitted, result in a form of development out of character with the general pattern of housing in the area.
- (3) The proposed development is poorly sited in relation to adjoining and nearby residential properties, and would prove injurious to the general amenity of the area.

Dated 25th day of ... April 19 85 ...

Signed.....



Chief Planning Officer

SEE NOTES OVERLEAF

P/D. 15

NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.



DEPARTMENT OF THE ENVIRONMENT

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Your reference REH/DS/REES					
PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL					
Re/Dur reference T/APP/A1910/A/85/03294/P5				Act.	
C.P.O.	D.P.	D.C.	B.C.	Admin.	File
Date					
		7 FEB 86			
Received <i>[Signature]</i> 10 FEB 1986					
Comments					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY D B REES (BUILDERS) LIMITED
APPLICATION NO: 4/0283/85

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. The appeal is against the decision of the Dacorum District Council to refuse planning permission for the erection of 21 flats on land at "Limba" and "Ommaroo", Chesham Road, Bovingdon. I held a local inquiry into the appeal on 14 January 1986.

2. From my inspection of the site and surroundings, and from my consideration of all the representations made, I am of the opinion that the decision in this appeal rests primarily on whether the proposed development would be so harmfully out of keeping with its surroundings on the edge of the village that it is necessary to refuse permission, bearing in mind also the council's planning policies to restrict new residential development of an 'infill' nature in Bovingdon and certain other locations to less than 10 dwellings, although this number may be increased to meet a priority housing need or provide an appropriate planning gain if the site is under 1 ha in size.

3. A considerable part of the inquiry was devoted to the consideration of the council's planning policies affecting the proposal before me. Apart from policies 3, 18, 19 and 66 to which I will refer below, the Dacorum District Plan, adopted in January 1984, contains policies to direct new residential development to certain areas, and to control the rate at which it takes place. The latter policies are in pursuance of a Policy (11C) in the County Structure Plan, which was approved by the Secretary of State subject to modifications in 1979, but was later successfully challenged in the High Court.

4. Bovingdon is a settlement named in Policy 64 of the District Plan as being suitable for further development on small sites (subject to the policies mentioned above), and 'small' sites are defined in an explanatory paragraph (5.20) as being for less than 10 dwellings. Bovingdon is also covered by Policy 65A which indicates that permission will normally be granted (subject to the above policies) for development of 10 dwellings or more so

long as the area of the site is less than 1 ha, and provided the development meets (a) a priority housing need or (b) provides an appropriate planning gain. It was agreed at the inquiry that the latter does not apply in this case as there would be no planning gain of the type intended (eg removal of a harmful non-conforming use). However your clients argue that the development would come within the terms of the other proviso as the accommodation would be of a size that would be suitable

shown to be so in respect of 21 flats erected by your clients on an adjacent site, Honours Mead, (so-called Phase I) for which a planning permission was granted after a previous appeal in 1984.

5. The council do not accept that this meets their definition of priority housing need unless the units - or at least 11 of them were allocated for occupation by specific categories of person (eg the elderly) under an Agreement, or as a result of a planning condition. However they appreciate that the latter would not accord with advice in paragraph 77 of Circular 1/85.

6. While I can understand the reasons for the council's wish to exercise control over the overall growth of population in the district, and indeed the rate of development in view of the considerable population in the district, and indeed the rate of development in view of the considerable expansion, over and above that actually planned, that has taken place in the district during the last 5 years or so, the latter is not easy to achieve in practice, and I have some misgivings about the particular provisions of Policy 65A as a means of limiting growth. I understand this is being reconsidered as part of an overall review of the District Plan.

7. It seems to me to be implicit in the Plan, ie Policy 62 dealing with the conversion of existing large houses and other suitable buildings into small dwellings, Policy 64 already mentioned, and Policies 11D and 16 of the County Structure Plan, that there is an accepted need for more small units to meet changing housing needs (ie for smaller households and single persons). The provision of such units is thus rightly encouraged under Policy 64 by accepting up to 10 dwellings on small sites, but your clients' proposal must be considered under Policy 65A because it is for more than 10 dwellings, even though the site is only about .25 ha which is well below the permitted 1 ha limit for larger developments under specified circumstances. If less than 10 dwellings had been proposed the application would not have come under this policy. This seems to me to be illogical as a few larger units which in no way could be regarded as meeting a priority housing need are regarded as acceptable, whereas more units of a type that would be very likely to do so are not.

8. Furthermore it appears to me from the facts relating to other developments involving flats mentioned at the inquiry, (Honours Mead, Bovingdon, Christchurch Road, Tring and Russell Court, Hemel Hempstead) that only some units need to be intended for use by elderly persons to meet a priority housing need. In none of the above instances was any restriction actually placed on the occupants when the permissions were granted after appeals. In this case your clients are not prepared to enter into any agreement with the council, nor would they accept any form of

occupancy condition, which in any event I would not feel inclined to impose even if I were minded to grant permission in view of the advice in Circular 1/85. However I accept your clients' view that the proposed dwelling units are of type that would be most likely to be occupied by persons having have a priority housing need, and I would thus be very reluctant, in the circumstances, including the successful challenge of Policy 11c in the Structure Plan, to refuse permission on grounds of conflict with Policy 65A in the absence of any other planning objection, taking into account also the provisions of paragraph 5 of Circular 14/85.

9. Further major issues, over and above the specific effects of the proposed development which I will consider below, were raised by interested persons, including the Parish Council and Bovingdon Action Group. Not all the objections were supported by evidence of the local planning authority or the views of the local highway authority and, in my opinion, some cannot be regarded as material considerations in this appeal. However in view of the obvious strength of local opinion against all development in the village, I consider I should comment briefly on the main points raised.

10. The general tenor of the views put forward were that very few, if any, new dwellings should be permitted at Bovingdon, despite the provision for some expansion in the relevant planning policy documents, and any development as large as that being proposed by your clients should be resisted at all costs, including for example by paying for the Parish Council to be professionally represented at this inquiry. The first, and perhaps major, objection is that traffic conditions, both on Chesham Road during rush hours, and in the village (where there is virtually no off-street parking) throughout the day, have now become intolerable. It is also considered that the shopping and some of the social facilities are inadequate, particularly the size of the post office and the lack of a permanent library. Residents are further concerned about having to absorb into their close-knit community some 60 additional families, who will arrive with the opening of the new prison now being built on the old airfield. This will of course exacerbate the traffic problems.

11. I can well understand the reasons for the views expressed to me so forcefully by many of the persons who spoke at the inquiry, and I do not doubt they have good reason - in common with persons living in other villages on a busy traffic route and lacking adequate public car parking - for considering that conditions have become so bad that the living environment is being seriously affected. I can also appreciate that older residents yearn for the bygone days before any estate development took place in the village, but all these points are way beyond the scope of this appeal and are matters more appropriate for consideration in any review of the County Structure and/or District Plans when future policy for the village can be reconsidered and modified, if accepted as necessary after due deliberation. The material consideration in this appeal is that Bovingdon is designated as a village suitable for infilling. I accordingly do not consider it would be justified to refuse permission for 21 additional dwelling units for social reasons or lack of infrastructure, bearing in mind also that even though local residents find traffic conditions dangerous because many vehicles approaching

the village from Chesham do not observe the speed limit, the local highway authority have not felt able to make any objection to the proposed development as the visibility distance obtainable along Chesham Road from Hyde Lane (via which vehicular access would be obtained) meets their criteria. Moreover they obviously do not consider the amount of traffic has reached a more unacceptable level than on some other roads in the County as the planned bypass has not been included in the next 7 year programme for major capital schemes. I also note that there are no plans for providing additional off-street parking in the village, although I appreciate that this may be because it would be very difficult to find a convenient and available site.

12. However I accept that the erection of the new prison, and the influx of some 60 new families, is a material consideration in the appeal, and its effects should be given due weight in considering the impact of 2 further blocks of flats, containing 21 dwelling units, which is a larger development than any identified in the Structure Plan, as the housing for the new prison does not appear to have been included.

13. The remaining objections raised to the proposed development by both the local planning authority and interested persons, including the parish council, relate to the specific effects of flats on the surroundings. These have to be assessed under the relevant planning policies (3, 18, 19 and 66) in the District Plan and as well as in the light of Structure Plan and national development control considerations regarding adverse effects on the character of the housing area wherein the site is situated.

14. Many of the objections raised by interested persons were based on their dislike of the existing blocks of flats erected by your clients on the adjoining land at Honours Mead. For some reason not apparent to me your clients have chosen to call this 'Phase I Development', but as I understand it there has never been any commitment whatsoever from a planning point of view to granting permission for a 'Phase II'. The main criticisms of the existing development are basically to the manner in which it was carried out, with loss of former tree and hedge screening, loss of privacy by overlooking from the numerous windows facing Howard Agne Close, the high density, the appearance of the blocks - regarded as inappropriate in a village setting - and the loss of peace and quiet in Howard Agne Close from associated traffic and a parking area adjacent to the highway where formerly there was a tree/hedge screen to soften the outlook from the houses opposite. It is considered that these shortcomings would be likely to be repeated if permission were granted for the present proposal.

15. I would accept that the existing blocks are somewhat exposed from Howard Agne Close, and it seems a pity, with hindsight, that more care was not taken over screening and parking arrangements. However I do not consider there has been serious overlooking, and I do not object to the appearance of the buildings as such. I would also disagree with the objection about the density; it does not seem to me exceptionally high in relation to the terraced housing in Howard Agne Close, although I will mention this further below. I do not share the view that most of the shortcomings would necessarily be repeated if the proposal before

me were permitted; for instance I could not accept that flats should not be erected opposite to houses on the other side of Chesham Road because the privacy of the latter would be harmed when the distance between facing windows would probably be about 35m. I am also of the view that the flats would not dominate the outlook of any residents to the extent that the development would be contrary to the public interest - rather than just detracting from a more pleasant view over the appeal site which mistakenly some residents appear to regard as their right. I am of thus of the view that none of these reasons would justify refusal of permission if suitable conditions, in addition to those dealing with 'reserved' matters, were imposed to ensure adequate screening, and regulate the position and extent of the off-street parking (including the 2 additional spaces to be provided).

16. However I am most concerned that the proposed development would be out of character with its surroundings, which is one of the local planning authority's main concerns apart from the purely policy objection. The existing development was permitted to replace a large 3 storey, older, dwelling house, apparently with a quite high roof line, which was being used as 5 flats. Thus one 3 storey building of flats was replaced by 2 others, and it does not seem to me that this sets any precedent whatsoever for considering that it would be acceptable to replace 2 modestly sized bungalows with 2 further large blocks of flats, even though the density of the development would be comparable to that in Howard Agne Close. I am also of the opinion that the flats at Honours Mead do not reflect the mainly 2 storey house and bungalow character of the surroundings - they are in fact the exception - although there a few comparable flats at the other end of the Close. In my view the proposed development, by adding 2 further blocks of flats on an exposed corner site, would have a major impact in urbanising the environment. The effect would be much greater than Honours Mead as the site is more prominent and does not have the benefit of mature trees in situ. Moreover if your clients are ever able to purchase the land on the northern side of the appeal site, I would see a strong likelihood of a further similar application, which would then be extremely difficult to refuse logically. Taking into account the new prison on the northern side, as well as the new housing being provided there, it seems to me that, whereas at present the 2 existing blocks of flats merely add what I regard as acceptable variety to the housing stock, and are exceptions in the village scene, the existing appearance of this part of Bovingdon, which although not having any special features is nevertheless quite pleasant, would be changed almost beyond recognition if a further major massing of buildings were permitted.

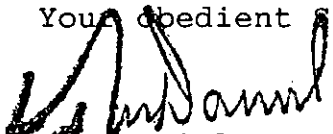
17. I have of course taken into account the advice in the recent Circulars in favour of allowing new development and regarding the need to make the best use of land within built-up areas for new dwellings in order to avoid having to use good agricultural land, and this is of course most important in the green belt where there is little land left for housing. Clearly residents of villages such as Bovingdon cannot normally expect redevelopment at higher than previous density to be refused unless there are other major objections. However I do not consider there is anything in the circulars which encourages the replacement of 2

bungalows with large, high-profile, blocks of flats, especially as, in this instance, the dwellings it is intended to demolish are in a satisfactory condition. Furthermore it seems to me that the provisions of Policy No 16 of the County Structure Plan, which state that while redevelopment at higher density will be encouraged, it should be of low-rise character, also militates against the proposal. I thus do not consider the public interest would best be served by allowing development that I consider would cause a detrimental change in the character and appearance of this edge of the village.

18. I have examined all the other points raised in the representations, but there is nothing of sufficient substance to outweigh those considerations that have led me to my decision that the proposed development should not be allowed, at least not on the scale proposed at present.

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

I am Gentlemen
Your obedient servant



J.M. Daniel DFC FBIM
Inspector

APPEARANCES

FOR THE APPELLANT

Lord Silsoe

Queens Counsel, instructed by
Messrs Matthew Arnold and
Baldwin, Solicitors,
20 Station Road, Watford,
Hertfordshire, WD1 1JH.

He called:

Mr R Perrin MRTPI

Associate of Messrs Stimpsons,
Cruickshank, Chartered
Surveyors. 14A St Albans Road,
Watford, Herts WD1 1RX.

FOR THE PLANNING AUTHORITY

Mr K M Pugsley

Solicitor and Assistant
Secretary (Legal), Dacorum
District Council.

He called:

Mr J E Knapp DipTP
MRTPI

Principal Assistant Planner,
Dacorum District Council.

INTERESTED PERSONS

Mr A F Barker

Partner of A F Barker and
Company, Solicitors, Wessex
Court, Midland Road, Hemel
Hempstead, Herts HP2 5BH,
appearing for Bovington Parish
Council.

He called

Councillor E J West Bovington Parish Council.

Mr D A West

Local Resident, 55 Chesham
Road, Bovington,
Hertfordshire, HP3 0EA.

Lt Col B J G Madden

Local Resident, Gaelen House,
Bovington, Herts HP3 0JW.

Mr G S Norman

Local Resident, 16 Church
Street, Bovington,
Hertfordshire HP3 0LU.

Mrs M Nash

Local Resident, Clematis
Cottage, Howard Agne Close,
Bovington, Herts, HP3 0EQ.

Mr W O Bates	Local Resident, 12 Pembridge Road, Bovington, Hertfordshire, HP3 0QJ
Mr J E Rogers	representing the Bovington Action Group, 27 Didmore, Bovington, Herts HP3 0EE.
Mrs K Gilbert	Local Resident, Greenways, Bovington, Herts HP3 0EE.
Mr G Owen	Local Resident, 9 Howard Agne Close, Bovington Hertfordshire, HP3 0EQ.
Mr G G Fidler	Local Resident, Falaise, Chesham Road, Bovington Hertfordshire HP3 0EE.
Mrs F O'Connor	Local Resident, 29 Howard Agne Close, Bovington, Hertforshire HP3 0EQ.
Mr T L Benbow	Local Resident, 5 Howard Agne Close, Bovington, Hertfordshire HP3 0EQ.
Mrs R Pierleoni	Local Resident, 20 Chipperfield Road, Bovington, Hertfordshire.

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Copy of a letter sent by Dacorum District Council to interested persons informing them of the appeal
P and the inquiry.
- Document 3 - letters from 13 interested persons handed in at the inquiry, in addition to 5 received previously.
- Document 4 - Bundle of 21 documents handed in by the appellants' witness.
- Document 5 - Copy of letter from Hertfordshire County Council to Messrs Stimpsons Cruickshank dated 18 December 1985.
- Document 6 - Bundle of 3 documents handed in by the local planning authority's witness.
- Document 7 - Letter from Property Services Agency to Dacorum District Council dated 29 November 1985.
- Document 8 - Bundle of 3 documents handed in by Bovington Action Group.

PLANS

Plan A - 2 plans accompanying the application subject of the appeal.

Plan B - Plan of area surrounding the appeal site - scale 1:2500.

Plan C - Dacorum District Council - Proposal Map: Bovingdon.

Plan D - Land use map of area surrounding the appeal site.