



# The Planning Inspectorate

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TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY PILLING LTD  
APPLICATION NO: 4/0317/91

1. I have as you know been appointed by the Secretary of State for the Environment to determine your clients' appeal. This appeal is against the decision of the Dacorum Borough Council to refuse outline planning permission for the erection of a building for any use contained within the 'B1' Use Class as defined by the Town and Country Planning (Use Classes) Order 1987, together with associated decked and ground level car parking, on land at Two Waters School Site, London Road, Hemel Hempstead. All matters of detail are reserved for later approval, but information submitted with the application states that a building of 5,875 sq m floorspace is proposed. The application was amended following submission by letter dated 27 March 1991 enclosing a revised illustrative plan, No 1204/11 Revision A. I held a local inquiry into the appeal from 12 to 14 February 1992, and I inspected the site on 19 February 1992.
2. At the inquiry an application was made by your clients for an award of costs against the Council. That is the subject of a separate letter. I have taken into account further written representations made by your clients and the Council following the close of the inquiry.
3. The appeal site is on the south-east side of London Road, part of the A41 trunk road, about 1/4 mile to the south of Hemel Hempstead town centre. It consists of a single storey motor car showroom, set back from the road with open car parking and storage areas on rising ground to front and rear. There are accesses both from London Road and from Whiteleaf Road on the west side. The site has the benefit of planning permission for redevelopment for car showroom, workshops, storage and parking, the details for which were approved on 28 June 1991.
4. To the east of the appeal site a new road and junction with London Road are under construction, to form a link to the town centre from the Kings Langley By Pass, also under construction to the south of the town and scheduled for completion in the summer of 1993. Land further to the east is used for a variety of storage and industrial uses, while there are

premises of telephone, electricity and gas undertakings to the west. Adjoining the centre of the west boundary of the site, on land occupied by British Telecom, there is a 4 storey office building known as Seymour House. There are a number of other motor car showrooms along the main road frontage. Lower ground to the north is generally open and is known as the Moor, forming part of the Bulbourne River valley.

5. The development plan for the area consists of the Dacorum District Plan adopted in January 1984, read together with the Hertfordshire County Structure Plan 1986 Review, approved in May 1988. The District Plan makes employment provision for the period to 1991. On the Proposals Map the appeal site is shown for Industry, to which Policies 46 to 48b apply. Apart from Policy 48a (by which industrial development is normally limited to existing or proposed industrial areas), none of those policies are of relevance to the appeal site or proposals. Under Policy 53 of the Plan planning permission for office development will normally only be granted where the proposal is located within the commercial area of the town centres of Hemel Hempstead, Berkhamsted and Tring. The appeal site is not within any of those areas, as defined on the Proposals Map.

6. Policy 48 of the Structure Plan provides for recycling urban land and bringing back into use areas of neglected or derelict land for both housing and employment generating purposes. Policy 49 specifies that development will generally be concentrated in a number of towns, including Hemel Hempstead. Policy 64 states, among other things, that provision for employment uses will be made having regard to the available labour supply, changing employment densities, restructuring of the local economy, and emerging technological requirements. Under Policy 65 provision for an additional 105,000 sq m gross of floorspace for business use will be made in Dacorum over the period 1981-1996; additional business floorspace may be permitted where this secures the aim of urban regeneration and renewal, and does not undermine the principles of the policy in terms of the figures stated. Policy 73 provides that within employment areas, which may be defined in local plans, priority will be given to industrial development but other employment uses may also be identified.

7. On 23 January 1985 the County Council resolved that in the implementation and monitoring of the floorspace figures set out in Structure Plan Policy 65 only Class B1 developments within town centres and on new employment sites not identified in District Plans as at 1981 should be taken into account, and that it was not the County Council's intention that applications for Class B1 development within an industrial area existing at 1981 or similar location should normally be included.

8. In addition to the statutory development plan, proposed alterations to the Structure Plan, put forward in 1991, have been the subject of an examination in public, and a draft Borough Local Plan for the period to 1996 has been placed on deposit. The Secretary of State has published proposed modifications to the Structure Plan alterations. The draft Local Plan is to be the subject of a local inquiry later this year.

9. The Structure Plan alterations (as proposed to be modified) would substitute a number of criteria for determining the provision of business, general and special industrial uses, and warehousing, in place of the floorspace provisions of the approved Structure Plan and submitted alterations. Those criteria would include the principles of Policy 64, the

general need to maintain the flexibility provided by the Town and Country Planning (Use Classes) Order 1987, guidance provided by the County Council, the characteristics of employment opportunities and the labour market in the area, the supply of available floorspace and suitable sites, and the advantages or otherwise of identifying particular locations for encouraging particular types of development.

10. The Proposals Map for the draft Borough Local Plan shows the appeal site within the Two Waters General Employment Area, to which Policies 7, 29, and 41 apply. Policy 7 states that within General Employment Areas appropriate employment generating development is encouraged. Under Policy 29 development and redevelopment would be permitted in General Employment Areas for the range of employment generating uses set out in a table, but business use will not be permitted except as a necessary ancillary use, or where an established business use would be replaced. The table specifies that the range of uses within the Two Waters area is to be industry, storage and distribution, but that retail warehousing will also be an appropriate use. Factors to be taken into consideration in assessing development proposals will include the character of the area, other planned development, the character of adjoining areas, and traffic generation and highway impact.

11. Policy 41 of the draft Borough Local Plan refers to opportunities for the development of retail warehousing development or other similar retailing being available in the Two Waters General Employment Area. Under Policy 25 the supply of land for employment generating uses is not to be increased unless the total number of jobs potentially available falls short of a balance with the number of jobs needed in the Borough. It is assumed that no change in the level of commuting from the Borough will take place, that an unemployment rate of 2.5 per cent will accord with full employment, and that all land identified for employment generating uses will be effectively used for that purpose. The Council have also resolved that a study should be carried out, following the inquiry into the Borough Local Plan, to review the planning policy framework for an area adjoining the proposed Two Waters Link Road and consider what changes should be made to the Borough Plan in terms of new proposals and greater detailing.

#### Case for the Appellants

12. Your clients contended that there was no policy support for a restraint on office development, since the Structure Plan figures were to be read as a minimum provision, not as a ceiling which was not to be exceeded. In the light of the County Council's resolution, the Structure Plan provision for business floorspace did not include the appeal site. The proposed development would comply with the Plan's aim of urban regeneration and renewal. There was no evidence of any overheating in the economy either locally or nationally. Unemployment was now at a level of 6.3 per cent, as compared with 5.9 per cent in 1986, and there was no shortage of available labour. Employment densities were falling and would continue to fall, reducing the amount of employment which sites could provide. There was a shift from manufacturing to clerical and service occupations in local employment, as elsewhere in the South East. There was an ample reserve of housing land, commuting out from the Borough had increased, and there were no infrastructural difficulties.

13. The proposed modifications to the current Structure Plan alterations showed the uncertainty of the methods used for estimating the overall floorspace provision required in the County for employment purposes. The examining panel had concluded that if followed closely they might place an artificial limit on the supply of competing land, and thus make it more likely that commitments which were not in a prime location would be realised resulting in a less efficient use of land.

14. The 1984 District Plan was out of date and not in accordance with the current Structure Plan; a statement that it was not in general conformity had been issued immediately following the Secretary of State's approval of the 1986 alterations. The District Plan ran to 1991, and sought to implement a Structure Plan which was totally different in approach from the Structure Plan approved in 1988. Its policies had been overtaken both by that plan and by the effect of the Use Classes Order 1987.

15. The emerging Borough Plan strongly supported the proposed development of the appeal site, except for the identification of particular uses other than business use in the Two Waters area. An objection had been lodged to that proposal. It seemed to be explained mainly as a reflection of what could be found in the area now, which was not a progressive attitude. The main policy (Policy 29) would allow very considerable flexibility in uses acceptable in the majority of General Employment Areas. In the absence of any study to show a real need for a particular kind of user there was no justification for a restriction in this area. It was relevant that the brief for the study that the Council now proposed to carry out included business as one of the possible uses along the line of the link road.

16. There was no prospect that a permission in this case would act as a precedent for other similar development in the area, or prejudice the implementation of the draft Borough Plan. The site was set apart from other parts of the Two Waters area that were away from the link road, because of its prominence and its suitability for B1 use. The suggestion that statutory undertakers might seek sites in the Green Belt if this proposal was permitted was unrealistic. The Council had themselves permitted a J Sainsbury superstore and a large office building on land allocated for industrial use.

17. There was no real evidence of any unmet requirement in the area of land for industrial or storage purposes, within Classes B1(c), B2, or B8 of the Use Classes Order. On the basis of recent annual take-up, there was some 12 to 15 years' supply of land and premises available for industry. The vacancy rate was over 7 per cent. The Council's list of enforcement sites in the Green Belt was no evidence of need for industrial land. There was no demand for retail warehousing use. On the other hand, the supply of B1(a) floorspace was about 8 years on the basis of recent annual take-up. That was less than the supply available for industry. A majority of that take-up had been for local users, not leading to an increase in employment in the area.

18. The appeal site had unchallenged superiority over unbuilt B1 sites, and there were specific users or occupiers in view. The site was particularly well suited for B1 development in view of its accessibility by both bus and rail and its proximity to the town centre, features which were lacking in out of centre sites. A planning permission in this case would

not make any difference to the rate at which vacant B1(a) sites would be taken up. If anything it would encourage use or implementation for industrial rather than office use of those sites.

19. Revised illustrative proposals showed that a building of 3 storeys in appearance with roof storey could be constructed on the site, similar in height to the nearby Seymour House and with surface car parking screened from surrounding roads. It would not break the skyline when viewed from the north. Such a scheme would be wholly consistent with its surroundings, and would be appropriate for the important position which the site had in the townscape. The prominence of the site would be of particular importance when the new link road was completed, because it would be alongside a main approach or gateway into the town from the south. As was conceded at the inquiry, the Council's objections to the scale of the proposals had been based on a misreading of the submitted illustrative plans and could not be sustained.

20. It was pointed out that there were no amenity objections to the proposals and that there were no objections of any kind from third party interests. There were no highway objections, whereas the scheme would provide clear benefits in the improvement of the Whiteleaf Road junction, the closure of the existing access from London Road, and the removal of heavy goods vehicle movements to and from the site, which would otherwise increase in the future. The appeal site had been used since 1980 for car showroom and retail purposes. If the appeal proposals were not permitted the outstanding planning permission would be implemented and the site used for multi-franchise car retailing. There was no prospect of the Council's preferred use for industrial or storage use being implemented. Because of its steepness and narrow width the site was not suitable for those uses. Approximate costings of the Council's sketch scheme produced at the inquiry suggested a loss of some £300,000, excluding any sum for land value.

#### Case for the Council

21. The appeal site had always been in an area designated for industrial use and the permission granted for showroom use had been generous. The site was well located for industry and warehousing, being ideally placed in relation to the link road so that heavy goods vehicles would not have to pass through the town. The Two Waters area was used for public utility and other *ad hoc* uses. It had been resilient to pressures, and only one unit was vacant. In view of its history as an industrial area it should remain in industrial use. The town needed such an area. There had always been a considerable demand for small industries in Dacorum, many of which had become established on unauthorised sites (including sites in the Green Belt), and were heading for enforcement action. It was Government policy that particular attention should be paid to the needs of small concerns. The Two Waters area was suitable for such firms.

22. Planning permissions for business, industrial and storage uses were monitored as part of the County strategy for matching employment and housing needs. The monitoring showed that there was an oversupply of permissions for offices, and a shortage of industrial land. There was a difference between short-term marketing and long-term land supply. Nevertheless the draft Borough Plan would allow business development in 75 per cent of the identified General Employment Areas. When the draft Borough Plan was being prepared the rôle of all General Employment Areas

for the future had been considered. The rôle of the Two Waters area was assessed as providing a base for utility undertakings and other similar purposes. There were no material considerations to show why the area should be lost in favour of B1 uses.

23. The objects of the development plan were to prevent a growth spiral and to protect the environment. If the proposed development were allowed it could have the effect of releasing other sites prematurely, causing an in-migration into the area to overcome a mismatch of skills in the labour force, with detriment to the urban environment and leading to pressure on the Green Belt. There was a danger of precedent for further B1 development in the area, causing British Telecom and other undertakings to seek to move out to Green Belt sites.

24. The new Section 54A of the Act created a presumption in favour of the development plan, and militated against planning permission being granted for proposals that were contrary to the plan. The District Plan formed part of the development plan and had been taken into account in refusing the appeal application. However the deposited draft Borough Plan was more up-to-date and carried greater weight than that plan. At Two Waters land was a scarce resource and the development plan must be followed so that a more orderly form of development could evolve. The new Section supported the advice in Planning Policy Guidance Note 1 that where the development plan was up-to-date and relevant to the particular proposal it should normally be given considerable weight in the decision.

25. It was acknowledged that there was a loss of industrial land at the J Sainsbury site, but the skilled workers who had previously worked on the site could not readily adapt to other industries, and the land had been empty - unlike the appeal site. The alleged difficulties of carrying out industrial development on the appeal site would be taken into account in the forthcoming study of the area. It was relevant that the existing uses of the site had been permitted and were viable. The new road network would provide benefits for your clients' business in that there would be easier access for the majority of cars that were transported away to the site to other dealers. The site and the Two Waters area were not seen as being suitable for urban regeneration and renewal in Structure Plan terms, but the study would be an aid to future development in the area up to the turn of the century.

26. The suggestions made by your clients regarding the image of the town did not accord with the perceptions of townspeople. The site was in a prominent position, and a building of the size proposed would be visible from residential areas to the north. The Kodak building already marked the gateway to the town centre and another gateway was not needed. However having seen your clients' revised illustrative proposals, the Council accepted that a scheme could be designed so as to fit in with the general scale of development in the vicinity of the site.

#### My Conclusions

27. From my inspection of the appeal site and its surroundings, and my consideration of the representations made, it seems to me that the main issues to be resolved in this case are whether the appeal proposals would

result in a serious oversupply of business premises in the area, or in a significant loss of land needed for general industrial, storage, distribution, or retail warehousing development.

28. Bearing in mind the County Council's interpretation of the approved Structure Plan, it seems clear to me that the business floorspace to be provided in the Borough from 1981 to 1996 should not be taken as including any development on the appeal site, which is neither within a town centre nor a new employment site. In addition, the references to urban regeneration and renewal provide some support for your clients' proposals. The effect of the Secretary of State's proposed modifications to the Structure Plan alterations cannot yet be fully assessed, but it seems clear that reliance on particular floorspace limits is no longer seen as appropriate. Nevertheless I consider it important, in an area constrained by the Metropolitan Green Belt, that development which might lead to an excessive creation of employment (in turn leading to additional pressures for new housing) should not be permitted.

29. Given the current level of unemployment in the area, the appeal proposals if implemented might well prove to be beneficial to the local economy, and would accord with the Government's support for development relevant to economic prosperity. The proposed development would, on the other hand, add to the potential business floorspace in the Borough, to an extent not envisaged in the approved Structure Plan. However it appears unlikely that several sites permitted elsewhere will in fact be developed for offices, and in present circumstances the links between employment development and pressures for the release of additional Green Belt land for housing seem somewhat tenuous. I am not convinced that a planning permission granted in this case would necessarily result in a serious oversupply of business premises in the area.

30. I appreciate the Council's desire to reserve an area where small firms might be located, particularly those displaced from Green Belt sites as a result of enforcement action. However there could well be a number of practical difficulties in developing the site for industrial buildings. There appears to be no foreseeable shortage of land and premises for industrial use elsewhere in the town, and there is also no evidence of need for retail warehouse uses, which would also be acceptable to the Council. It seems more likely that if the appeal were dismissed the site would be used as motor showrooms rather than for the uses preferred by the Council. I do not consider that use of the site for business purposes would amount to a significant loss of land needed for industrial, storage or retail warehouse uses.

31. Your clients' proposals would conflict with the restrictive Policy 53 of the 1984 District Plan, but that plan is now somewhat dated and has been superseded to some extent by the more recently approved Structure Plan and by the 1987 Use Classes Order. In view of the unlikelihood of the appeal site being developed either for its designated industrial use, or for any of the alternative uses proposed in the draft Borough Plan, I think it reasonable for an exception to be made in this instance to the strict application of the District Plan policy.

32. The draft Borough Plan is subject to your client's objection relating to this site, and must also be subject to some amendment so as to conform with the current Structure Plan alterations when approved. In addition the

appeal site is to my mind distinguished from other sites in the Two Waters area by its steep slope and its location alongside the link road to the town centre. I am not convinced that a permission in this case should act as a precedent for further business development in the area, or be seriously prejudicial to the devising of policies for limiting office development and safeguarding industrial land generally in the Borough, as feared by the Council.

33. In my view the prominent location of the site, alongside the new link road into the town from the south and overlooking the attractive open space of the Bulbourne River valley, calls for a building that would respond positively to its setting. Your clients' revised illustrative plans suggest the basis for an appropriate design, but in view of the visibility of the site from the river valley and residential areas to the north the details would need to be worked out with care.

34. I have taken into account all the other matters raised in the representations, including the suggested need for a railhead in the area, but those matters seem to me outweighed by the considerations which have led to my decision.

35. In the event of the appeal being allowed and planning permission granted, it was agreed that it would be appropriate for conditions to be imposed (in addition to the standard outline and time limit conditions), requiring the carrying out and maintenance of the approved details of landscaping, the access to the site to be only from Whiteleaf Road, the development not to be begun until the A41 bypass works were complete and the building not to be occupied until the junction improvements at Whiteleaf Road had been carried out. I am satisfied that conditions to those effects are necessary in the interests of improving the visual amenity of the area and for reasons of highway safety.

#### Decision

36. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of a building for any use contained within the 'B1' Use Class as defined by the Town and Country Planning (Use Classes) Order 1987, together with associated decked and ground level car parking, on land at Two Waters School Site, London Road, Hemel Hempstead in accordance with the terms of the application No 4/0317/91 dated 28 February 1991 and the plans submitted therewith, as amended by letter dated 27 March 1991 and plan No 1204/11 Revision A, subject to the following conditions:

1. a. Approval of the details of the siting, design and external appearance of the building, the means of access thereto and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the local planning authority;
- b. application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this letter.
2. The development hereby permitted shall be begun on or before whichever is the later of the following dates:

- a. five years from the date of this letter or
- b. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved.

3. Means of vehicular access to the permitted building may be from Whiteleaf Road only.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

5. The development hereby permitted shall not be begun before the A41 Kings Langley By Pass has been completed and is open to traffic and the existing vehicular access to the site from London Road has been closed to the satisfaction of the Local Planning Authority.

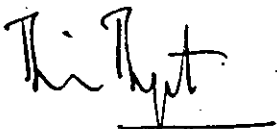
6. The building hereby permitted shall not be occupied until the improvements to the junction of Whiteleaf Road and London Road, generally as shown on Drawing No 1204/111B, have been completed to the satisfaction of the Local Planning Authority.

37. Attention is drawn to the fact that an applicant for any consent, agreement, or approval required by a condition of this permission, and for approval of the reserved matters referred to in this permission, has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

38. The developer's attention is also drawn to the enclosed note relating to the requirements of the Buildings (Disabled People) Regulations 1987.

39. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

I am Gentlemen  
Your obedient Servant



B D BAGOT BA(Arch) MCP RIBA MRTPI FRSA  
Inspector

ENC

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL



Application Ref No. 4/0317/91

Pilling Ltd  
London Road  
Hemel Hempstead  
Herts

Lardi Cox And Partners  
One The Old School House  
George Street  
Hemel Hempstead Herts  
HP2 5HJ

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Pillings Ltd London Road Hemel Hempstead

REDEVELOPMENT FOR OFFICES, LIGHT INDUSTRY OR RESEARCH AND DEVELOPMENT AND PARKING  
(OUTLINE)

Your application for *outline planning permission* dated 28.02.1991 and received on 07.03.1991 has been *REFUSED*, for the reasons set out on the attached sheet(s).

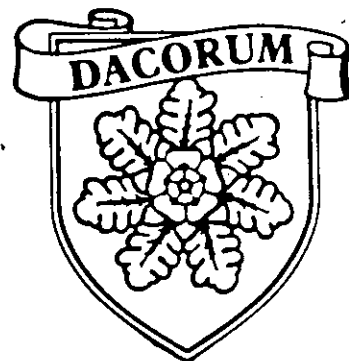
Director of Planning

Date of Decision: 25.04.1991

(ENC Reasons and Notes)

REASONS FOR REFUSAL  
OF APPLICATION: 4/0317/91

Date of Decision: 25.04.1991



1. Policy 53 of the Dacorum District Plan states that planning permission will not normally be granted for the erection of offices unless the proposal is located within the Commercial areas of Hemel Hempstead, Berkhamsted and Tring. The proposal does not accord with this policy and would if permitted, introduce an inappropriate business use into an industrial area.
2. The proposal would result in the loss of land for industry and storage for which the site and surrounding area are needed and suitable.