

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To D H Loveday & Son Limited
96 Cotterells
Hemel Hempstead

Change of use from school grounds to form extension
to Haulage Contractors yard. Vehicular access to school
at 96 Cotterells, Hemel Hempstead

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 11 March 1986 and received with sufficient particulars on 19 March 1986 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 existing haulage contractors yard is in inappropriate use in a residential area. The proposal to increase the site area would enable more and larger heavy good vehicles to use the site. This is likely to result in a further deterioration of residential amenity for nearby occupiers and increased traffic congestion in Cotterells.
2. The proposals do not provide for adequate visibility sight lines for the proposed access to the school playing fields within the application site and would therefore result in highway danger.
3. The proposed chain link fence along the southern boundary of the site would provide inadequate screening of the increased site area and the proposal would therefore detract from the appearance of the area.

Dated 15 day of May 19 86

Signed *W. B. Marshall*

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.

1) MB
2) ~~MB~~
3) RB



Department of the Environment and
Department of Transport

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CHIEF EXECUTIVE
OFFICER
-6 NOV 1987
File no.
Refer to ... C.P.O. ... 6/11 ...
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Your reference

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Our reference TOWN AND COUNTRY PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL T/APP/C/87/A1910/002/P6				
Ref.	Date	A/86/A1910/587/P6		
C.P.O.	D.P.	5 NOV 87	B.C.	Admin. File
Received - 6 NOV 1987				
Comments				

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY D H LOVEDAY AND SON LTD
LAND AT 96 COTTERELLS, HEMEL HEMPSTEAD

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeals. These appeals are against an enforcement notice issued by the Dacorum Borough Council and a against a refusal of planning permission by that Council concerning the above-mentioned land. I held an inquiry into the appeals on 25 August 1987.
2.
 - a. The date of the notice is 13 February 1987.
 - b. The breach of planning control alleged in the notice is the change of use of land hatched green on the plan accompanying the enforcement notice from school playing fields to use as part of a haulage contractor's yard.
 - c. The requirements of the notice are:-
 - i. to cease use of the green land as part of a haulage contractor's yard;
 - ii. remove the concrete hardstanding from the green land and replace with topsoil and turf.
 - d. The period for compliance with the notice is 3 months.
 - e. The appeal was made on the grounds set out in Section 88(2) (a) of the 1971 Act as amended.
3. The development for which planning permission was refused is the change of use of land at 96 Cotterells from school grounds to form wider access way to haulage contractor's yard.
4. Your clients' premises comprise an older semi-detached property together with an adjoining access from The Cotterells leading to a yard at the rear and including a brick workshop positioned at the head of the access drive. The Cotterells is an access road serving predominantly residential properties although with a number of commercial users, parallel to the Leighton Buzzard road and immediately west of the town centre. There are no waiting restrictions and the street is extensively used for on-street parking.

5. The access to the service yard has been widened by the incorporation of a strip of land from the adjoining school playing fields and measuring some 2.7 m x 43 m. This area has now been hardsurfaced and enclosed with a chain link fence above a dwarf wall although incorporating double gates within the entrance splay to provide occasional access to the school playing fields for grass cutting and other operations. To this end a hardstanding extends a little way into the playing field area.

6. The Council have refused your clients' retrospective planning application as representing the extension of an inappropriate use in a residential area and as providing the opportunity for use by additional and larger vehicles to the detriment of residential amenity; secondly, as not providing adequate sightlines for the access to the school playing fields; and thirdly, in that the chain link fence on the southern boundary provided inadequate screening to the increased site area to the detriment of the appearance of the area. In this situation and from my inspection of the site and surroundings and consideration of the evidence it therefore appears to me that a decision on both the appeal under ground (a) and under Section 36 turns on an assessment of the extent to which the enlarged access area is likely to contribute to road congestion in the locality and detract from the appearance of the immediate area.

7. Your client explained that his father had established the business on the present site in 1951. The semi-detached property was partly used as offices and both the adjoining dwelling and the detached property further to the north were within the control of his family. Eight vehicles were operated, six 30-ton fixed wheel base trucks and two smaller vehicles and the pattern of operation and numbers of vehicles had not changed since the access had been widened. Nor were there any proposals to increase either the size of the fleet or the weight of vehicles utilised.

8. The previous access had been narrow and somewhat difficult to negotiate leading to occasional damage to the adjoining fence and gates. A representative of the County Highways Department had first suggested that a strip of land might be acquired from the Education Authority. This was agreed and the land conveyed in January 1986 subject to a requirement that your client provide a replacement chain link fence on a low brick wall and an alternative gated entrance for maintenance of the school playing field. It was maintained that the widened access improved the residential amenity in the locality in that there was less likelihood of vehicles being parked on the highway. It was now feasible to park one vehicle within the widened drive without obstructing access to the rear yard. It was only after these works were partly completed that the District Council had advised that permission was required for the change of use, nevertheless the works had been completed in order to secure the school playing fields and an application submitted.

9. It was contended that the Cotterells was no longer wholly residential, there were some 14 properties used for a variety of commercial purposes including a garage, working men's club, another haulage business and various office uses. There was no loss of amenity in that the appearance of the premises when seen from the west was largely as before except that the condition of the boundary fence was much improved. The view from the highway was anyway largely obscured by trees and a hedge in summer months with some screening provided throughout the year. Your client had reasonably assumed that the County Council's requirements for the access provided acceptable sightlines to the occasional entrance to the school playing fields. It was concluded that a number of local residents were effectively objecting to the existence of your client's long-established business, the manner and extent of operation would not change and it was maintained that the use of the extended drive did not result in harm to an issue of acknowledged importance within the terms of Circular 14/85.

10. For the Council it was acknowledged that whilst the depot was not ideally sited it was long-established with a number of past permissions relating to its extension and erection of a workshop building. Structure Plan policies sought to control and make provision for heavy goods vehicles to reduce their impact on the environment. The parking of commercial vehicles in residential areas was included under this heading and the expansion of a haulage yard within a residential area was contrary to the Structure Plan policies. The Dacorum District Plan at Policy LPA3 stated that the authority would have regard to traffic considerations and environment in considering new development and Circular 22/80 also referred to excessive traffic generation as a factor which might justify a planning refusal.

11. There had been a number of complaints regarding traffic and parking difficulties in the vicinity of the appeal site, although there were other non-residential uses in Cotterells, your client's yard was the only one generating significant numbers of heavy goods vehicle movements. The road surface outside the site was damaged and it had been necessary to erect a barrier to protect the verge opposite the access in a road inherently unsuitable for use by heavy goods vehicles. The extension to the site area had provided an opportunity to park more vehicles at the site as was clearly shown by photographs taken in the period July-October 1986. Whilst your client might not have any intention of increasing the size or number of vehicles the occupation of the site could change and the increased area would facilitate the operation of additional and larger vehicles. This would result in further deterioration of the environment and amenities of local residents. A further area of concern related to the proximity of the site to the town centre so that its expansion ran counter to aims, set out within a Draft Town Centre Plan to improve the attractiveness and hence economic vitality of the centre.

12. A widened bellmouth would have been adequate to secure improved access at the site without significantly increasing the site area. Residential amenity was damaged by reason of traffic noise, vibration and disturbance and the unsightly appearance of a haulage yard, although the adjacent houses were currently within the control of the company the situation might change and it remained the case that vehicles operated by your client continued to be parked in Cotterells. Should permission be forthcoming then it should be a requirement that a solid brick wall was erected along the revised boundary with the school playing field in order to limit unsightly views into the haulage yard.

13. The Water End Preservation Society were concerned at the potential for increased generation of heavy vehicle movements along the Leighton Buzzard Road, this was particularly narrow through that village with consequent loss of amenity, disturbance and damage to walls and buildings.

14. It appears to me that your client has acted in good faith throughout and has reasonably considered that the extension to the access drive, whilst assisting the operation of the business, would also lessen the overall impact upon the environment by reducing the necessity for the parking of heavy vehicles on the highway. Whilst the Council are reasonably concerned to maintain and improve the residential amenity of the locality, it remains the case that the business is long-established and I accept that the manner of operation has not altered since the access was extended and nor is there any intention of utilising more or heavier vehicles. Whilst it is possible that the ownership of the site might alter there is no reason to suppose that this is likely and whilst the enlarged site does allow a further vehicle to be parked securely, I do not consider that it is likely to give rise to any additional movements or disturbance in the locality.

15. It further appears to me that your client reasonably considered that the revised access arrangement following the conveyance from the Education Authority met the requirements of the Highway Authority in respect of sight distances. The

entrance to the school playing fields is likely to be used only occasionally and I note that the School Governors have expressed their satisfaction with both this arrangement and the repositioned chain link fence boundary. Because the view into the premises from the school playing fields has not changed to any material extent and this boundary of the site is anyway screened to some extent from the highway to the south I do not consider that there is, in the circumstances of this case, any justification for requiring the erection of a brick wall to screen views into this part of the site.

16. In concluding that both the appeal under ground (a) and the appeal under Section 36 succeed I have considered all the other matters raised, including the concerns of the Water End Preservation Society concerning road conditions in that village but do not find any to be of such weight as to override the factors which have led me to my decision.

FORMAL DECISIONS

THE NOTICE

17. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal, direct that the notice be quashed and grant planning permission for the change of use of the land hatched green on the plan accompanying the enforcement notice from school playing fields to use as part of a haulage contractor's yard on the application deemed to have been made under Section 88B(3) of the Act.

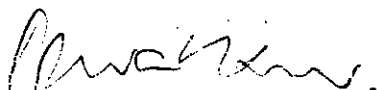
THE REFUSAL OF PLANNING PERMISSION

18. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal and grant permission for the change of use of land at 96 Cotterells from school grounds to form a wider access way to haulage contractor's yard in accordance with the terms of the application (No 4/0320/86) dated 11 March 1986 and the plans submitted therewith.

RIGHT OF APPEAL AGAINST DECISIONS

19. This letter is written as the determination of the appeals before me. Particulars of the rights of appeal to the High Court against my decisions are enclosed for those concerned.

I am Gentlemen
Your obedient Servant



P D WALKER BA(HonsTP) MRTPI
Inspector

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