

4. The proposal would result in the generation of heavy goods vehicle traffic using Shootersway, a residential/rural road which would be detrimental to the safety and free flow of traffic on the highway network, and would require HGVs to use unsuitable roads. The proposed development is, therefore, contrary to the County Council's Local Roads Policy.

5. The proposal is contrary to Waste Disposal Criterion 7 of the Waste Disposal Criteria for the assessment of Planning Applications for Planning Permission and Waste Disposal Licences, December 1987 which says that the use of rights of way to obtain vehicle access to a site will not normally be permitted. The access route is a Byway which is not suitable for the proposed vehicular usage in terms of width and construction and would render the Byway unsuitable for walkers and horse-riders, and prejudice their safety.

6. The proposed access is subject to a Prohibition of Driving Order, as yet not implemented, which would prevent heavy goods vehicles from using the proposed access.

7. The proposal would have a detrimental impact on the amenities of the locality by virtue of the duration of operations and volume of movements proposed.

3. Whilst the area of the steep sides of the hollow could be interpreted as being less than the 1.35ha. specified in the application, the parties agreed at the Inquiry that this represents the area which would need to be filled to achieve grade with the remainder of the field, and that the amount of fill required would be 33,750 cu.ms. It was also established that the access proposed is via Shootersway and Two Ponds Lane. I shall consider the proposal on this basis.

4. From my view of the site and its surroundings and having considered all the written representations, I consider that the main issues in this case are whether the proposal is acceptable in terms of its likely effect on the local road network, the Green Belt and the landscape of the Area of Outstanding Natural Beauty, bearing in mind the intended agricultural purpose of the proposal.

5. On the highways issue, I found Shootersway to be a rural road without footways to the west of its junction with Darr's Lane and with verges of variable width, some of which are higher than the road surface and difficult to walk on. Although it is a rural road it serves a number of dwellings, notably the residential development on 'The Larches'. The road is wide enough for two heavy goods vehicle to pass with care but I noted on my site visit that in a free flow situation such vehicles tended to cross the central markings on the carriageway. I also noted that the verges were well worn by traffic in places and featured the imprints of lorry tyres. Having walked the road I consider that it is not a road on which heavy goods vehicles should be encouraged because of the care needed when passing each other and, particularly on such occasions, the possible dangers involved when passing pedestrians, cyclists and horseriders.

6. The road narrows to about 5m wide in the vicinity of the entrance to "Shooters" where there is a turning head close to the access to Two Ponds Lane. Any queueing of heavy goods vehicles here would be likely to cause

congestion and difficulty for other vehicles seeking to gain access or to turn round.

7. Two Ponds Lane is a highway but is an unmade track which apart from being relatively newly made and raw looking has the character of a simple field access. Whilst no data on pedestrian use of the track or of Pea Lane, a byway to which it leads, was available to me I have no doubt, given their character, location and reference in the representations, that these routes are attractive walks for local people around the periphery of the settlement. However, the access to the appeal site is a long road which is too narrow for a heavy goods vehicle to pass a walker or horserider without endangering the latter who would have to take to the narrow and uneven verges. One end is not visible from the other and there is no opportunity for two such vehicles to pass.

8. Because of these problems, it is suggested on your client's behalf that conditions and/or undertakings in a planning obligation would be acceptable to overcome these difficulties and would have the effect of reducing the number of lorry movements from the intended 66 per day to 44 per day and extending the duration of the operation from about 70 working days to 105. Conditions would also need to apply to the routing of lorries, their hours of operation to avoid the school 'run' up to 0900, and their control by radio or some other means such as flags, to ensure that only one is on the track at any time and that any which need to wait do so in the appellant's field rather than on Shootersway.

9. With regard to lorry routing a condition would not be appropriate as advised in MPG2 para.79 and I believe that an agreement would be difficult to enforce because the appellant could not guarantee to be able to control the routes of contractors' lorries to a sufficient degree. It was argued that no other route but Shootersway would be feasible anyway and that relatively small numbers of heavy goods vehicles would be involved but bearing in mind the possible danger to pedestrians on Shootersway I am not content to cause an increase of heavy goods vehicles using this road. I realise there have been no accidents involving heavy goods vehicles on the road but this is no reason for condoning circumstances which may lead to such occurrences.

10. I have taken into account the view that the duration of the operations would be limited. However, it would involve on average about 3 lorries per hour on a single width track, which bearing in mind the length of Two Ponds Lane, would imply that a lorry would be present on the track for an average of about 18 minutes in each hour of operation. In my view this would be a significant period, roughly a third of the working day during which lorries would be using the track. This would be a level of use, over a period of some 6 months, which would be likely to interfere with the recreational use of the road by endangering walkers and riders. I am not convinced either that the appellant could guarantee the necessary control over the lorry movements, by radio or flag, or that lorries would visit the site at such conveniently regular intervals as to avoid queueing to get in or out and then several lorries passing along the road together which would be an added inconvenience to other users. Your client would not be able to control other lorries which may use the lane occasionally, for example to access the telecommunications mast or other fields, and conflict with other such users could not be ruled out.

11. I therefore do not consider that the road is suitable for the passage of heavy goods vehicles in quantity and to improve it, as suggested, by resurfacing with materials more capable of withstanding such a level of use would create a road and give an appearance which would, I believe, be out of keeping with this rural location. Similarly the introduction of passing bays or refuges for walkers and riders would be out of character with the type of road which is clearly intended and constructed for occasional vehicular use, and not for regular use, even over a limited period, by heavy goods vehicles.

12. The suggested conditions and terms of the planning obligation represent elaborate devices which seek to overcome the real harm and difficulties of access which would be caused by this proposal and because of the practical problems of their enforcement on a day to day basis I cannot rely upon your client's expectations of enforceability. I do not consider that they would overcome the risk to other highway users. I therefore consider on the first issue that the appeal should be dismissed.

13. On the remaining issues, tipping on open land is not within the list of acceptable development within the Green Belt prescribed by Structure Plan Policy 1 and the council consider that the tipping would be of limited agricultural benefit which would be insufficient reason to justify such development in the Green Belt where it would have a harmful impact on the local environment. Additionally Structure Plan Policy 2(i), relating to the Chiltern Area of Outstanding Natural Beauty, seeks the preservation of the beauty of the Chilterns landscape. The council regard the hollow as a characteristic, natural feature of the Chilterns landform which adds visual interest to the landscape. As the field can be cropped, the hollow's infilling would be contrary to Structure Plan Policy 2(ii) which although it encourages agriculture to prosper, qualifies this aim by stating that 'some aspects of the most utilitarian economic advantage may have to be sacrificed.'

14. Also in terms of Structure Plan Policy 23 there is 'a presumption against the tipping of waste materials on all open land except where the local planning authority is satisfied that significant agricultural or land drainage improvements or landscape enhancement will result.' The council view is that the proposal does not comply with the basis of the policy as the site is not severely damaged by mineral working or any other development; the landscape would be harmed, and the agricultural improvement would not be so significant as to outweigh the presumption against development.

15. You argue that infilling with suitable soil to improve the quality of the land from grade 4 to grade 3a around the hollow making the whole field grade 3a/b and improving its agricultural use would be acceptable under Green Belt policy and that in terms of Policy 23, the proposal would be an improvement for the appellant in his agricultural enterprise. The effect of such a change on the landscape would not be significant, in fact there would be improvement because of the proposed new treeplanting and hedgerow strengthening which would also protect and enhance local wildlife habitats. It would enable the physical improvement of the site, in accordance with policy 5A of the approved Structure Plan and be likely to ensure its long-term care and agricultural use. There is also a need for consistency with other decisions for infilling and tipping, for example, at Smarts Wood, Rossway Lane; Hamberlins Farm, Didswell; and on fields off Shootersway.

16. I am satisfied that the concave slopes around the hollow, particularly in the area described by Mr Hobbs, are too steep to farm conveniently and safely; that the proposed improvements in gradients would avoid danger to farmworkers and the resultant improvement in land quality would result in increased flexibility of cropping. There would therefore, in this particular case, be a significant improvement to the appellant allowing him to make better use of his field, and in reaching this conclusion I have taken into account the fact that his holdings are dispersed and that this field is the closest to his centre of operations where I saw his stock and buildings.

17. Whilst it cannot be argued that the improvement would be significant in national terms, particularly at a time when 'set aside' is common, the characteristics of the individual enterprise should be considered carefully and in this regard I believe that this field assumes a disproportionate importance to the appellant.

18. I also consider that the change to the landscape would be barely noticeable. The hollow is not prominent in the landscape even though the field is visible from points across the valley in parts of the Northchurch Common area. Whilst it is a natural feature, its filling and grading and the proposed landscaping would, in my judgement, result in no less an attractive view.

19. Whilst there may be a neutral effect on the landscape and good reasons for the proposed tipping development associated with agricultural improvement, notwithstanding its location in the Green Belt, I consider that the highway aspect of the case is the crucial issue and would cause the harm which I have outlined, and which leads me to the overall conclusion that the appeal should be dismissed.

20. I have considered all other matters raised, including the question of improving the drainage in the base of the hollow which from the evidence and my site inspection I do not consider to be a problem of sufficient importance to override the considerations which weigh against the proposal. Nor does any other matter raised outweigh those that have led to my decision.

21. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal and refuse planning permission for the infilling of a hollow for agricultural improvement on land north of the A41 Bypass, Northchurch, Berkhamsted, Hertfordshire.

Yours faithfully



M.D. SHAW MA(Oxon) MA MRTPI
Inspector

DOCUMENTS

- Document 1 - List of persons present at the Inquiry.
- Document 2 - Council's letter of notification of the Inquiry and list of persons notified.
- Document 3 - Letters from interested parties.
- Document 4 - Mr Stapletons' Proof of Evidence.
- Document 5 - Mr Stapleton's Appendices.
- Document 6 - Mr Crook's Proof of Evidence.
- Document 7 - Mr Knowles' Proof of Evidence.
- Document 8 - Ms Campbell's Proof of Evidence, Summary and supplement.
- Document 9 - Ms Campbell's Appendices.
- Document 10 - Mr Hunt's Proof of Evidence.
- Document 11 - Mr Howling's Proof of Evidence and supplement.
- Document 12 - Mr Howling's Appendices.
- Document 13 - Letter dated 28/3/94 from Cllr Ann Williams.
- Document 14 - Memoranda dated 5/10/93 & 15/4/94 from J E Hunt to Ms Campbell.
- Document 15 - Suggested conditions.
- Document 16 - Suggested Highway conditions/basis for agreement.
- Document 17 - Planning obligation relating to the land.

PLANS

- Plan A - Application plans.
- Plan B - The area identified by Mr Hobbs as the steepest part of the hollow.
- Plan C - Mr Hance's landholdings..

PHOTOGRAPHS

- Document 8 (Appendices RAC 1 and 3) contain photographs of the site

APPEARANCES

FOR THE APPELLANT

Mr P Village

- of Counsel, instructed by North Crook Planning Ltd.

He called:

Mr C J Stapleton,
BSc, DipTP, MRTPI

- Associate, Reading Agricultural Consultants.

Mr A Hobbs

- Agricultural Contractor, Valley View, Kenmore Farm, Berkhamsted.

Mr M S Crook BA (Hons),
MRTPI.

- Director, North Crook Planning Ltd, The Former Brewery Tap, 3 Shirburn St., Watlington, Oxfordshire, OX9 5BU.

Mr M R Knowles BSc, CEng,
MICE, MIHT, Dip TE, ACGI.

- Partner, Tucker, Parry, Knowles Partnership, Highways, Transportation and Infrastructure Planning Consultants

FOR LOCAL PLANNING AUTHORITY

Mr J Ellison

- Solicitor, Hertfordshire County Council.

He called:

Ms R Campbell BA (Hons)
BTP, MRTPI

- Principal Development Control Officer, Herts CC.

Mr J E Hunt ARICS

- Land Agent, Herts CC.

Mr A Howling BSc, MICE,
MIHT

- Divisional Highway Manager Herts CC.

INTERESTED PERSONS

Mrs J Dunbavand

- "Little Oaks", Darrs Lane, Shootersway, Berkhamsted.

Mr G M Scott

- 25, Tring Road, Northchurch.