

**DACORUM BOROUGH COUNCIL**

To Apsley Village Club
39 London Road
Apsley
Hemel Hempstead

Mr Rodney Porter, FRICS
The Old Red Lion
33 Park Street
Thame, Oxon OX9 3HR

..... Alterations and Extensions (Outline)
.....
at Apsley Village Club, London Road, 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 and received with sufficient particulars on 22.3.88 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

The proposed vehicle parking arrangements are unsatisfactory and do not meet the requirements of, or standards adopted by the Local Planning Authority.

Dated ... TWELFTH ... day of ... MAY ... 19 88

Signed.....

SEE NOTES OVERLEAF

P/D. 15

Chief Planning Officer

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 and
Department of Transport**

Common Services

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218 927

Switchboard 0272-218811

Marshall and Galpin
Solicitors
St Helens House
35/37 West St Helens Street
ABINGDON
Oxfordshire OX14 5DY

Your reference

JT/LE PLANNING DEPARTMENT					
Our ref: DACORUM DISTRICT COUNCIL					
T/APP/A1910/A/88/098223					
Ref.	Date				Ack.
C.P.O.	D.P.	11	7 NOV	88C.	Admin. File
Received 21 NOV 1988					
Comments					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9 AS AMENDED BY
THE HOUSING AND PLANNING ACT 1986
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY APSLEY VILLAGE CLUB
APPLICATION FOR AWARD OF COSTS BY DACORUM BOROUGH COUNCIL
APPLICATION NO:- 4/0516/88

1. I have been appointed by the Secretary of State for the Environment to determine the appeal against the decision of the Dacorum Borough Council to refuse outline planning permission for alterations and extensions to Apsley Village Club, 39 London Road, Apsley End, Hemel Hempstead. I held a local inquiry into the appeal on 18 October 1988. At the inquiry an application for an award of costs against your clients was made on behalf of the Council and I deal with this separately below.

APPEAL

2. I consider that the main issue to be determined in this appeal is whether failure to meet the Council's car parking standards would result in unacceptable problems of highway safety.

3. It is your clients' long term aim to rebuild the existing, outdated club premises in order to provide a modern building and facilities for members. This appeal relates to an application for the first 3 phases of the development which are extensions to the existing premises. Phase 4 for the redevelopment of the existing building is not part of the appeal proposals. It is proposed to improve club facilities for existing members, not to provide larger premises for an increased number of club members. The application plan shows 81 car parking spaces being provided on this site.

4. Policy 19 of the District Plan states that all proposals for development shall include provision for car parking based on guidelines adopted by the Council. The "guidelines" are intended as reasonable requirements but can be modified depending on the merits of each proposal.

5. The Council has calculated the car parking requirements of the appeal proposals by a number of methods and the parties were agreed that the minimum number of 94 parking spaces could not be accommodated on the appeal site. I also agree with the Council that some of the car parking spaces numbered 1-14 on the application plan might prove unusable in practice and some might be extremely difficult to construct because of levels differences.

6. In the case of the existing club, whose present parking generation is known and not disputed, it seems to me that consistency with car parking standards cannot be regarded as the sole test of reasonableness in refusing planning permission. I take the view that planning permission in this case could only reasonably be refused if the car parking provision would be so inadequate that unacceptable traffic hazards would result. The Council accepts that the present club premises do not cause any parking or highway problems. The parking survey carried out by your clients between December 1987 and March 1988 indicated that the maximum number of vehicles parked on the site at any one time was 59. That figure was upwardly distorted by unauthorised parking on the site by vehicles not visiting the club. This problem has now been eliminated by the installation of an automatic card barrier to the car park with cards only being issued to club members. I therefore take the view that if the club membership were to remain at its present level then the proposed extensions and the number of parking spaces to be provided could be accommodated on the site without an unacceptable number of cars overflowing from the site and causing congestion and problems of highway safety on nearby roads.

7. In determining this appeal I have had regard to the previous appeal which was dismissed in 1979 for reasons of inadequate car parking provisions. Since that time a "land swap" has taken place and so the current appeal site area is different, as are the appeal proposals. Access and egress for club members is now from Kents Avenue and the club has recently imposed effective parking controls which restrict the use of the car park to members only. Since the previous appeal membership numbers have increased but it appears, on the basis of the car parking survey and evidence of your clients' witness, that numbers of members attending the club have not increased and that the current parking provision is more than adequate for those members who arrive by car.

8. I have therefore reached the conclusion that if numbers of club members were to remain at their present levels, then the car parking provisions shown on the application plan, even discounting some of those parking spaces numbered 1-14, would be adequate. It seems to me that merely because the appeal proposals do not meet the Council's guidelines would not result in any problems of highway safety. In my opinion the purpose of any parking standards is to prevent problems related to highway safety. If, as in this case, it is demonstrated that such problems are unlikely to occur, then in my view it is unreasonable to withhold planning permission solely because general guidelines are not met.

9. I agree with both parties that a planning condition controlling the numbers of club members would not be enforceable or within the spirit of the advice given in Circular 1/85. It seems to me however that your clients offer of a Section 52 Agreement in this respect would overcome the Council's reasonable fears about possible increases in membership of the club, after extensions and improvements have been carried out, which might result in more car borne members attending the premises and parking on nearby roads to the detriment of highway safety. However as this purpose cannot be achieved by means of a planning condition and because it has not yet been the subject of any legal agreement between the parties I take the view that planning permission must be refused until a means of controlling the maximum number of club members has been agreed by the Council and your clients.

10. I have given very careful thought to all the other matters raised at the inquiry. I do not consider that planning permission should be refused because there is a remote possibility that part of the appeal site might be required for road improvements at some time in the distant future. I have also borne in mind the present unattractive appearance of the appeal premises and the character of and the wide variety of land uses in the surrounding area. In my opinion the appeal proposals present a means of considerably improving the appearance of the appeal site and premises. With careful design of the proposed extensions and landscaping

of the car parking areas and boundaries of the site I consider that the appearance of the site could be considerably upgraded, even with the provision of extra car parking spaces close to the club building. None of the other matters raised during the course of the inquiry is of such weight as to override the conclusions I have reached on the main issue of this appeal.

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

APPLICATION FOR COSTS

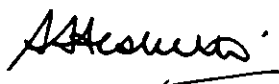
12. An application for an award of costs was made by the Council. The Council's car parking standards are clear and the Council's stance in dealing with this application and appeal has been reasonable. The appeal never had any prospect of success and should not have been lodged. Also, there was no need for an inquiry to have been held as the matter could have been adequately dealt with by means of written representations.

13. In reply, the appellants' representative was astonished at the costs application. Any appellant has the right to be heard at an inquiry and in this case an inquiry was necessary to ascertain what the Council's car parking requirements are and to test the Council's case. The appellants all along have tried to negotiate to reach agreements with the Council and have never acted unreasonably. The previous appeal related to completely different proposals on a different site area.

14. In determining the application for costs, I have borne in mind that in appeals the parties are normally expected to meet their own expenses, irrespective of the outcome of the appeal, and that costs are awarded only on grounds of unreasonable behaviour. Accordingly I have considered the application for costs in the light of Circular 2/87, the appeal papers, the evidence submitted by the parties, and all the relevant circumstances of this appeal. It seems to me that the appellants sought to provide the Council with information to overcome the only reason for refusal in this case. I accept that the appeal proposals do not meet the Council's car parking standards but it seems to me that the appellants approach in carrying out car parking surveys and implementing car parking controls on the site indicates a reasonable and co-operative stance, not in my view in any way meriting an award of costs against your clients. I agree with the appellants' view that the previous appeal decision does not pre-determine the outcome in this case as the appeal proposals and the site area are materially different. Paragraph 24 of Circular 2/87 indicates that costs will not be awarded simply because one of the parties to an appeal has asked for an oral hearing. Even if the appeal could have been adequately dealt with by written representations each party has a statutory right to ask for an opportunity to appear before and be heard by a person appointed by the Secretary of State. In all the circumstances therefore I do not consider that your clients acted unreasonably or that it was in any way certain that the appeal had no reasonable prospect of success and that as a result the Council was put to the unnecessary expense of an inquiry.

15. For the above reasons, and in exercise of the powers transferred to me, I hereby determine that the Council's application for an award of costs against your clients be refused.

I am Gentlemen
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'S. Hesketh', with a horizontal line drawn underneath it.

SUSAN HESKETH B.Sc (Hons) MRTPI
Inspector