



# Appeal Decision

hearing held on November 03, 1999

by Diane Lewis BA (Hons) MCD MA MRP

an Inspector appointed by the Secretary of State for the Environment, Transport and the Regions

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PLANNING DEPARTMENT									
DACORUM BOROUGH COUNCIL									
Ref	1999	D	D	F	C	S	C	S	S
FILE									
Received 08 DEC 1999									
Comments									
08 DEC 1999									

**Appeal :** T/APP/A1910/A/99/1026741/P9

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is brought by Mr and Mrs D Lockett against Dacorum Borough Council.
- The site is located at Chads Den, Old Watling Street, Flamstead.
- The application (ref: 4/00534/99/FUL), dated 1 March 1999, was refused on 18 May 1999.
- The development proposed is partial retention and modification of an existing outbuilding.

**Decision:** The appeal is dismissed.

## Development plan and other policy guidance

1. The development plan consists of the Hertfordshire Structure Plan Review 1991-2011, adopted in 1998 (the Structure Plan) and the Dacorum Borough Local Plan, adopted in 1995 (the Local Plan). The Structure Plan extended the Metropolitan Green Belt and as a result, the appeal site is within the Green Belt. Policy 5 of the Structure Plan and policy 3 of the Local Plan strictly control building development in the Green Belt, generally in accordance with the advice in Planning Policy Guidance Note 2: Green Belts 1995 (PPG2). Policy 89 of the Local Plan is also relevant to this appeal. It sets out a strategy to secure an attractive landscape character and identifies a landscape hierarchy. The appeal site is within a designated Landscape Development Area where, as the Council explained, emphasis is on improving the local landscape. Provision is also made in the policy for the use of Article 4 directions as a means of exercising greater control over new development.
2. The Local Plan is under review and has reached the Deposit Draft stage. Therefore, the review process is not well advanced and so the current document, the Dacorum Borough Local Plan (1991-2011) Deposit Draft 1998, has only moderate weight. Nevertheless, I note that the intentions of policies 3 and 89 of the existing Local Plan remain essentially unchanged in the emerging local plan.

## Relevant Site History

3. In 1995 a planning application was made to convert and extend a detached garage and to construct a detached garden store. The planning permission, by condition, specifically excluded the garden store. A building was subsequently constructed in 1996 without the benefit of planning permission, in the same position as the garden store proposed in the 1995 application, amid repeated attempts by the appellants to clarify the planning position with the Council. An enforcement notice requiring removal of the unauthorised building was served in October 1997. In April 1998 the site was included in the Green Belt and in July 1998 an appeal against the enforcement notice was dismissed. In March 1999 the Secretary of State confirmed a direction made under Article 4(1) of the Town and Country

Planning (General Permitted Development) Order 1995, (the GPDO), restricting development within Class E of Part 1 of Schedule 2 of the Order.

### **Procedural matters**

4. The appellants consider that the proposal is permitted development (PD) within Class E of Part 1 of Schedule 2 of the GPDO, because of the proposed distance of the outbuilding from River Hill. An application was necessary only because the Article 4 direction had taken away their PD rights. However, the Council maintains that the proposal is not PD because the outbuilding would be some 15 metres from the A5(T) highway.
5. The primary point at issue is the interpretation of condition (b) in Class E relating to the distance from the highway. There was agreement at the hearing that the southern elevation of the outbuilding is and would remain less than 20 metres from the A5(T) highway. This being so, the proposal to reduce the western end of the building in length has no bearing on whether the outbuilding is or would be PD, since the GPDO refers to *any* highway and then to *that* highway. There is no element of choice-of-highway in terms of the GPDO, it simply refers to *any* highway. The building does not and would not meet this criterion and hence cannot be PD. In reaching this conclusion I have had regard to the advice in the Department of the Environment Circular 9/95 'General Development Order Consolidation 1995'. In the Circular paragraph 43 states that development under Class E 'is not permitted where it is within 20 metres of a highway or where it is nearer the highway than the original dwellinghouse'.
6. The proposed development involves modification to an outbuilding that has been erected without planning permission. Therefore I intend to deal with this appeal as one relating to an application under Section 73A of the Town and Country Planning Act 1990 (as amended) to regularise development that has been carried out without planning permission.

### **The main issues**

7. The main issues are: -
  - Whether the modified outbuilding constitutes inappropriate development in the Green Belt and if so, whether there are any very special circumstances to overcome the presumption against such development.
  - Whether the proposal would materially harm the character and appearance of the surrounding countryside.

### **Inspector's reasons**

8. Chads Den is a detached bungalow with an L shaped garden in the valley of the River Ver. The garden extends down the valley side and in its south-west corner is the outbuilding in question, a single storey brick building with a pitched roof. Chads Den is one of several dwellings grouped around the junction of Old Watling Street and River Hill, while the village of Flamstead is on the opposite side of the valley.

### **Issue One: Green Belt**

9. The development is a new outbuilding, not an extension to the dwelling and so I will assess the proposal against the relevant policies of the development plan on this basis. Very small scale building which is necessary to sustain an acceptable use may be permitted under

policy 3 of the Local Plan, provided that it has no adverse impact on the character, function and appearance of the Green Belt. Housing is not one of the appropriate uses identified in the policy and therefore there is a presumption against the outbuilding. Even though, as the appellants argue, the outbuilding is related to an established residential use, I consider the outbuilding, for a purpose incidental to the enjoyment of the dwelling, to be desirable but not necessary to sustain the use. Moreover, the most important attribute of the Green Belt is its openness. The freestanding additional outbuilding, because of its solid physical form and its location some distance away from the dwelling in a prominent position on the hillside, would erode the sense of openness of this part of the Green Belt and thus cause significant harm to its character, function and appearance.

10. Turning to policy 5 of the Structure Plan, permission for development will not be given except in very special circumstances for purposes other than those detailed in PPG2. The proposed development does not fall within any of the defined purposes in PPG2. I therefore conclude that the outbuilding is inappropriate development within the Green Belt, which by definition is harmful to the Green Belt, as stated in PPG2.
11. I turn now to consider whether there are any very special circumstances that justify setting the policy objections aside. The appellants put forward the following main arguments to justify the proposal. In a letter dated 6 March 1996, albeit when the site was not in Green Belt, the Council raised no objection to the proposed footprint and position of the outbuilding. The building as modified would not require planning permission as it is exempt under the GDPO and with this support by Parliament they are entitled to an outbuilding. If their interpretation of the GPDO is not accepted, then a material consideration is the limited extent that their proposal deviates from the provisions of Class E. The proposed size, height above ground and site coverage would not contravene conditions of Class E.
12. Furthermore, the appellants pointed out that while the existing outbuilding is unauthorised, it was constructed prior to the Green Belt designation and the Article 4 direction. They expressed concern that the enforcement notice requires its demolition, rather than its reduction to a level where planning permission was not required. If sufficient demolition was carried out so that it became PD, then there is no breach of planning control as the building pre-dates the Article 4.
13. The appellants also made reference to the extensive history surrounding the development, their grievances against the way the Council had dealt with matters and the difficulties of pursuing their case through legal channels. However, they expressed doubt whether these would amount to very special circumstances.
14. In my opinion none of the matters raised by the appellants constitute very special circumstances. I have to assess the proposal before me and to do so in the light of current policies and material considerations. I have concluded that, because of its distance from the highway, the proposed partial demolition and alterations would not result in the outbuilding becoming PD. Therefore the appellants' arguments, which rely on a different interpretation of the relevant provision in the GPDO, are not, in my view, well founded. Even if it were PD, then the Secretary of State has said in the confirmation letter of the Article 4 direction that exceptional circumstances apply in relation to this case in this locality, a consideration which I must bear in mind in the determination of this appeal. Hence, although the proposal seeks to comply with the conditions in the GPDO regarding its proposed size, height above ground and site coverage, these factors have to be considered in conjunction with its

proposed siting. I have found that in principle the outbuilding would be harmful to the Green Belt and that its siting, in a particularly vulnerable location, would adversely affect the openness of the Green Belt. The arguments put forward as very special circumstances do not amount to positive factors that would outweigh the harm.

15. My conclusion on this issue is that the modified outbuilding constitutes inappropriate development in the Green Belt and that there are no very special circumstances to overcome the presumption against such development. Therefore it is contrary to policy 5 of the Structure Plan, policy 3 of the Local Plan and national planning guidance in PPG2.

#### Issue Two: Character and Appearance

16. The appeal site is in a semi-rural location, where sporadic development of variable quality has taken place along the main road corridor of the A5(T). Chads Den is in a prominent location within a cluster of houses on the hillside of the River Ver valley, set against the backdrop of a group of mature trees and open farmland extending towards the valley ridge. The site is within a Landscape Development Area where, in accordance with policy 89 of the Local Plan, new development will be expected to make a positive contribution to the landscape and special regard must be given to the effect of proposals on views and vistas.
17. The proposed outbuilding would be some 12 metres long, with a maximum height of 4 metres and a volume of 330 cubic metres. Despite the reduction in the size and scale of the building, including modifications to the roof, and the partial screening of the boundary hedges, I consider that it would remain visible in views from the south and the village of Flamstead. The building is sited in a sensitive position, on sloping ground on the hillside, in the corner of the garden visually divorced from the bungalow and neighbouring dwellings and in close proximity to the adjacent highways. In my opinion it would be intrusive in the landscape because of its siting and the way it detracts from the soft landscape edges to the highway and the attractive countryside in this particular part of the valley.
18. The appellants have indicated their willingness to accept reasonable conditions requiring the outbuilding to be faced in timber and landscaping to the site. These measures would help to integrate the development into its setting. However, appropriate planting would take time to become established and mature and, without a specific scheme to demonstrate otherwise, I am doubtful whether the building could be successfully screened in a way that would improve the local landscape character. The fundamental problem of the siting of this particular outbuilding in a vulnerable location would remain. My conclusion is that the modified outbuilding would harm the character and appearance of the surrounding locality and thus the proposal would be contrary to policy 89 of the Local Plan.

#### Summary

19. I have found on the two main issues that the proposed development would be contrary to the development plan and that there are no very special circumstances to overcome the policy objections. I have considered all other matters raised in evidence but there is nothing of sufficient weight to lead me to change my decision. I have assessed the proposal on the basis that its use in relation to the principal dwelling could be controlled by planning conditions and, therefore the possibility of it becoming a separate dwelling has not influenced my findings on the main issues.

**Conclusion**

20. For the reasons given above I conclude that the appeal should not succeed and I shall exercise the powers transferred to me accordingly.

*Dore Lewis*

NORTHGATE  
DOCUMENT STAMPED  
TO ENSURE DETECTION  
BY SCANNER

## APPEARANCES

### FOR THE APPELLANT:

Andrew King BA(Hons), B.Pl., MRTPI

Agent, Andrew King and Associates

Gillian Lockett and Danny Lockett

Appellants, Chads Den, Old Watling Street, Flamstead

### FOR THE LOCAL PLANNING AUTHORITY:

Anne Davies BA(Hons), M.Sc, DIPTP, MSc Head of Planning Enforcement, Dacorum Borough Council  
(HIST CONS), MRTPI

### INTERESTED PERSONS:

## DOCUMENTS

- |          |   |  |
|----------|---|--|
| Document | 1 | List of persons present at the hearing   |
| Document | 2 | Council's letter of notification and list of people notified                               |
| Document | 3 | Appendices to Mr King's Statement  |
| Document | 4 | Appendices to Mrs Davies' Statement  |
| Document | 5 | Message of apology from Flamstead Parish Council   |
| Document | 6 | Dacorum Borough Local Plan Proposals Map, sheet 3, April 1995                              |
| Document | 7 | Dacorum Borough Local Plan Proposals Map, sheet 3, October 1998                            |
| Document | 8 | Extract from Hertfordshire Structure Plan Review 1991-2011, 1998: Key Diagram and Policy 5 |

## PLANS

- Plan A The application plans being Site Plan, Elevations and Plan drawing no. DL100A Feb 99



# PLANNING

Civic Centre Marlowes  
Hemel Hempstead  
Herts HP1 1HH

ANDREW KING & ASSOCIATES  
21 GILPINS RIDE  
BERKHAMSTED  
HERTS  
HP4 2PD

MR & MRS D LOCKETT  
CHADS DEN  
OLD WATLING STREET  
FLAMSTEAD ST. ALBANS  
HERTS  
AL3 8HJ

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/00534/99/FUL

CHADS DEN, OLD WATLING STREET, FLAMSTEAD, ST. ALBANS, HERTS, AL3  
8HJ  
PARTIAL RETENTION AND MODIFICATION OF AN EXISTING OUTBUILDING

Your application for full planning permission dated 01 March 1999 and received on 23  
March 1999 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 18 May 1999

**REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00534/99/FUL**

Date of Decision: 18 May 1999

**1. The application site is located in the Metropolitan Green Belt in the Hertfordshire Structure Plan Review 1991-2011 and in the Dacorum Borough Local Plan 1991-2011 Deposit Draft. Within the Green Belt planning permission will only be granted for appropriate development in accordance with national policy advice contained in Planning Policy Guidance Note 2 - Green Belts, local policies contained within the approved Development Plan and the policies of the Dacorum Borough Local Plan 1991-2011 Deposit Draft. The proposal represents inappropriate development and no very special circumstances have been advanced to show why planning permission should be granted. The proposal is therefore contrary to national and local planning policies for the Metropolitan Green Belt.**

**2. The development occupies a prominent position in the Metropolitan Green Belt, is poorly related to the existing buildings on the plot and has an adverse impact on the open appearance of the surrounding area.**

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