

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To

Mr J Burgin
169 Boxted Road
Hemel HempsteadFaulkners
49 High Street
Kings Langley

Dwelling (outline)

at Beechwood Farm, Roman Road, Frithsden

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 2nd April 1984 and received with sufficient particulars on 3rd April 1984 and shown on the plan(s) accompanying such application.

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

The site is within the Chilterns Area of Outstanding Natural Beauty and in an area referred to in the approved County Structure Plan and Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings changes of use or extension of existing buildings changes of use or extension of existing buildings for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is unacceptable in the terms of this policy.

Dated 28th day of June 1984

Signed

Chief Planning Officer

P/D.15

SEE NOTES OVERLEAF

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) 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 section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is 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.
- (3) 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 District 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.
- (4) 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 section 169 of the Town and Country Planning Act 1971.



Department of the Environment and
Department of Transport

Common Services

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Post.	
C.P.O.	D.R.

ACT COUNCIL

Act.

Admin.

Received 858

Comments

Your reference

PRF/JG/2/9677

Our reference

T/APP/A1910/A/84/025729/P2

Date

1 - JUL 85

Messrs Faulkners
49 High Street
KINGS LANGLEY
Herts
WD4 9HU

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR J BURGIN
APPLICATION NO: 4/0566/84

1. As you know, I have been appointed by the Secretary of State for the Environment to determine the above appeal against the decision, by the Dacorum Borough Council, to refuse outline planning permission for the erection of a dwelling at Seechwood Farm, Roman Road, Frithsden. Details of the siting, design, landscaping and external appearance of the proposed dwelling, and of the means of access to it, were reserved for subsequent approval. I held a local inquiry into the appeal on 15 May 1985.
2. On the basis of the evidence and submissions and my inspection of the site and surrounding area, I find that the main issue in this appeal is whether the agricultural need for a dwelling on your client's holding is strong enough to override the Council's policies for the restriction of development in this rural area which forms part of the Chilterns Area of Outstanding Natural Beauty.
3. Your case was that your client, who is a stockman, carries on the business of rearing young calves (between one week and 3 months old) on a smallholding comprising some 5 acres of land; without being able to live on the site, it is difficult and inconvenient for him to run the existing business, which provides him with a bare living, and impossible for him to expand the operation as he now wishes.
4. In response to a request from the Council, the Ministry of Agriculture, Fisheries and Food provided technical information about the nature and viability of the business (Document 5). In the opinion of the Ministry's Surveyor, the enterprise is viable at present, and capable of providing a livelihood for a competent farmer if developed as your client proposes. No accounts were produced at the inquiry, but you submitted a budget for the current year which supported and reinforced the view of the Ministry of Agriculture. Although doubts were cast on the long-term profitability of the business and there was argument about the exact meaning of part of the Surveyor's opinion, there was no evidence at the inquiry which leads me to doubt the accuracy of the Ministry's assessment.
5. Given that the holding is a viable one, the next question is whether it is necessary for a stockman to be on hand at all times. Your client gave evidence about his present working routine and the problems encountered in looking after very young animals, and from what he said and the other evidence on the operation of the holding I am satisfied of the necessity for someone to live "within earshot", as you put it, of the stock.

6. In many rural areas, these circumstances might well be sufficient to support the conclusion that your client's proposal should be permitted. There are, however, 2 special features in this case: first, the site lies within an area designated as one of outstanding natural beauty, and secondly, your client's stock-rearing business is not dependent on the cultivation of the land which he occupies.

7. Areas of Outstanding Natural Beauty are designated not, like Green Belts, for their location but for the inherent quality of their landscape. The designation requires the approval of the Secretary of State, and implies that safeguarding the appearance of the area is a matter of national or at least regional importance. It seems to me that the nature of the Chilterns landscape, with its steep-sided valleys and ridges, narrow belts of woodland and closely-spaced but loose-knit settlements, makes it particularly sensitive to intrusion, and the proximity of this area to London and the relatively prosperous towns of Hertfordshire and Buckinghamshire means that pressures for development are intense. In my opinion the Council's adopted policies to protect and conserve the beauty of this landscape are important and worthy of support.

8. I saw during my visit to Frithsden that the proposed dwelling, contrary to the opinion expressed by some of those who made written representations, would not occupy a prominent position in the landscape. The site is well below the ridge and, because of the convex shape of the hills, I do not believe the dwelling would be intrusive even in some of the long views which I was asked to consider, provided it were single-storey. At present the site is screened too by a conifer plantation to the south, although it was pointed out at the inquiry that this may not be a permanent feature.

9. The second special feature to which I have referred is the fact, stated in the Ministry of Agriculture's appraisal, that "a calf-rearing enterprise where calves are sold at 3 months old is not necessarily connected with the occupation of agricultural land". I accept your proposition that it is nevertheless an agricultural business but take the view that the lack of direct dependence on the land is an important consideration, and one which serves to distinguish this case from that of the vineyard in Roman Road, where a dwelling was permitted on appeal last year. There is a natural limit to the number of dwellings required in a given area of countryside as long as the viability of the farm units is based on the land itself; although the annex to Circular 24/73 implies that it will normally be appropriate for at least one dwelling to be associated with any viable farm, once the holdings become divorced from the land and dependent as in this case, largely upon imported fodder, the natural limit to the sub-division of the land and to the number of dwellings required disappears.

10. Agricultural practices and the organisation of the industry are normally outside planning control, but in this area, by virtue of a Direction under Article 4 of the General Development Order (Document 9), planning permission is required for agricultural buildings. The Council explained that the Direction had been made in 1971, when part of Nettleden Farm was sold in small parcels, and was intended to prevent the proliferation of buildings on small holdings. I agree with the Council that the introduction of additional buildings into this landscape - whether farm buildings or agricultural dwellings - would change its character and mar its appearance, contrary to the objectives of the statutory designation of the area as one of Outstanding Natural Beauty. Therefore, my conclusion is that the erection of a dwelling to serve a holding such as Beechwood Farm, whose viability is not dependent on its own land, should not be permitted.

APPEARANCES

FOR THE APPELLANT

Mr P R Faulkner, FRICS CAAV

- Partner of Faulkners,
Chartered Surveyors,
49 High Street,
Kings Langley, Herts, WD4 9HU.

He gave evidence himself, and called:

Mr J Burgin

- Appellant.

FOR THE PLANNING AUTHORITY

Mr K M Pugsley

- Assistant Secretary (Legal),
of Dacorum Borough Council.

He called:

Mr A E Markham, BA(Hons) MRTPI

- Senior Assistant Planner of
Dacorum Borough Council.

INTERESTED PERSONS

FOR THE NETTLEDEN & FRITHSDEN DISTRICT SOCIETY

Mr R T Hodder

- Solicitor, Smeathmans,
10 Queensway, Hemel Hempstead,
Herts.

He called:

Mr R P West

- Member of the Committee of
the Society, 16 Frithsden,
Berkhamsted, Herts.

Mr A L Shuffrey

- Little Manor, Frithsden,
Hemel Hempstead,
Herts, HP1 3DD.

DOCUMENTS

DOCUMENT 1 - List of persons present at the inquiry.

" 2 - Notice of inquiry and notification list.

" 3 - Letter in support of the appellant.

" 4 - 17 letters in support of the Council.

" 5 - Letter from the Ministry of Agriculture, Fisheries and Food,
enclosing agricultural appraisals.

" 6 - Correspondence about the appeal proposal, at application stage.

DOCUMENTS (continued)

DOCUMENT 7 - Extract from the County Structure Plan.

- " 8 - Extract from the Dacorum District Plan: Written Statement.
- " 9 - Copy of 'The Berkhamsted Rural District (Town and Country Planning) (Direction restricting permitted development) (Parish of Nettleden with Potten End) Order, 1971.
- " 10 - Previous planning applications on the appeal site.
- " 11 - Appeal decisions concerning land at Nettleden and Frithsden, put in by the Council.
- " 12 - Conditions suggested by the Council.

PLANS

PLAN A - The application plan.

- " B - Plan showing appeal site in relation to the surrounding area, put in by the Council.
- " C - Dacorum District Plan: Proposals Map.
- " D - Plan showing addresses of some objectors, put in by the appellant.