

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Ind Coope Benskins Ltd
Pennant House
Clarendon Road
Watford

Smith & Lattimer Ltd
PO Box 16
Hemel Hempstead

Extension to car park

at The Bell Public House, High Street, Bovington

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 12th April 1984 and received with sufficient particulars on 4th May 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 proposed development by reason of the increase in traffic noise which would be created particularly late at night, would have a seriously detrimental effect on the amenities currently enjoyed by the residents of the adjacent dwellings.

Dated 28th day of June 1984

Signed *W. B. Marshall*

Chief Planning Officer

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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PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL					
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Your reference					
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Our reference					
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Date					
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Messrs Stephenson and Co
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35 High Street
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HA4 7AU

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Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY IND COOPE BENSKIN LIMITED
APPLICATION NO:- 4/0602/84

- I have been appointed by the Secretary of State for the Environment to determine your client's appeal against the decision of the Dacorum Borough Council, to refuse planning permission for an extension to the car park of The Bell Public House, High Street, Bovington. I held a local inquiry into the appeal on 25 and 26 June 1985.
- From the evidence present at the inquiry and from my inspection of the site and its surroundings it is my opinion that the main issue in this case is whether the benefits of the proposed car park to the surrounding area outweigh the increase in disturbance due to noise likely to be experienced by residents of adjacent dwellings.
- Common ground exists between you and the council that the proposed development would provide the public house with a level of car parking which would meet the requirements for new development; that the proposal was satisfactory in all respects other than its effect on nearby residents; and that growth in residential development in Bovington would exceed that outlined in the Dacorum District Plan, with a consequent increase in the amount of traffic and demand for parking in the centre of the village.
- The essence of the council's case was that they considered that the proposed car park would create noise nuisance to nearby residents later in the evening and on many more evenings than did the present beer garden. In particular they were concerned about the effect on No 1 Bell Green, which whilst it had an almost blank wall facing the appeal site, had a bedroom window situated in the end wall very close to the boundary of the proposed car park. The owners of this property gave evidence that they already felt the use of the beer garden to be a disturbance.
- The council took the view that the removal of 17 cars from parking spaces in the High Street and nearby roads would not necessarily relieve other residents of disturbance, since the space vacated was likely to be taken up by other visitors, or alternatively the increased trade sought by your client would increase the demand for parking space. Therefore the development would conflict with Policy 67 of the District Plan, in that it would not be acceptable within

demand for parking space. Therefore the development would conflict with Polciy 67 of the District Plan, in that it would not be acceptable within a residential environment, and may not provide any benefit to the local community. Even if some benefit were to accrue to users and residents of the High Street, and to the users and owners of the public house, they did not consider that this would outweigh the concentrated and regular nuisance likely to be suffered by a few residents.

6. A number of local residents, the Parish Council and the Bovingdon Action Group put forward similar views to the council. Owners of properties in Church Lane pointed out that they were concerned that they would suffer disturbance from noise in their back gardens, to add to the disturbance already suffered at times from activities at a youth club and community centre at the front of the dwellings. They considered that any fences erected as noise barriers would be ineffective in preventing noise at the upper rooms of the rear of their house.

7. It was your client's case that the provision of the car park, which he needed so that he could develop his lunch-time trade, would be of benefit to the community as a whole by relieving the considerable problems of danger and congestion in the High Street. He did not expect that significant numbers of customers would come by car in the evenings.

8. An illustration of the danger which was considered to arise from present conditions on the High Street, a witness described an accident which had occurred to him when leaving the present car park of The Bell. You produced photographs 1-8 to show the degree of congestion in High Street. This was supported by written evidence (Document 5) from the licencees of The Bull and Wheatsheaf public house, local traders and members of the public, and by evidence given at the inquiry by the resident of No 108 High Street, at the corner of Green Lane, to the effect that at times she found difficulty entering her property and using the footways because of parked vehicles.

9. You considered that there would be no increase in noise from traffic at the appeal site late at night which could affect the amenity of nearby residents. This was the first ground of appeal and in your view the onus of proof of unacceptable noise levels lay with the council. Although measurements of ambient noise levels had been put forward, no corresponding measurements in a public house car park had been made available. You considered that the only firm evidence on the matter was that put forward by Mr Daniels who lives adjacent to the car park of The Bull, and stated that he did not find it to be disturbing; and by the Environmental Health Officer, who reported that no complaint had been received concerning disturbance from that car park, beyond a request for advice on procedure for making a complaint which had not been followed up.

10. Your client was prepared to erect a 6 ft fence and plant a hedge along the boundaries of the car park in order to minimise noise, and it was clear from Document 8 that these could be an effective noise barrier. You considered that the proposal would be to the general public benefit and would be in conformity with the aims and policies of the District Plan.

11. In my view the issue separates itself into 2 considerations. Firstly, whether the council and local residents are right to be concerned about the evening noise; and secondly, whether the benefits claimed by you from the relief of congestion are likely to be realised.

12. You say that the clientele enjoyed by the business tends to come on foot in the evenings. I find this to be inconsistent with your expectations that increased demand for parking in the High Street would arise from new developments in Bovingdon including the prison officer's accommodation which will be situated beyond Howard Agne Close, some 800 m from the appeal site. It is not a general borne out by the evidence given by both Mr Daniels and Mrs Carrol that parked vehicles in the evening cause obstruction and noise, and that this is related to the trade at the 3 public houses. I was given no reason to believe that either now or in the future there

vehicles in the evening cause obstruction and noise, and that this is related to the trade at the 3 public houses. I was given no reason to believe that either now or in the future there would be any significant difference in the clientele of the 3 public houses, which would result in the proposed car park being unused in the evenings.

13. You maintain that there would be no increase in noise levels which would affect the amenity of nearby residents. I do not accept your view that the lack of measurement and proof of the production of noise from users of a car park and their evidence brought by the council that disturbance may be caused by noise emanating from vehicles in a car park as engines are started and run, and due to customers slamming doors and holding conversation. In my view therefore there is no doubt that evening noise levels at the appeal site will increase as a result of the relocation of the beer garden and the introduction of the 17 car parking spaces.

14. As to whether this will affect nearby residents to an unacceptable degree, I find the evidence of Mr Daniels that he suffers no disturbance from the users of the car park at The Bull, to be balanced by that from Mrs Carrol that the noise at night-time from vehicles leaving the High Street is very disturbing. It is my view that there is a strong possibility that the closeness of the car park to the window of the main bedroom of No 1 Bell Green would lead to disturbance to the occupants. This would be at times by which they may have retired to bed, and throughout the year, whereas the existing disturbance from the beer garden is limited by the weather to fewer occasions, generally earlier in the evening. To a lesser degree I also consider that the enjoyment of houses and gardens of properties in Church Lane may be diminished.

15. I have considered whether a thick hedge and 6 ft fence along both boundaries of the site may act as a suitable noise barrier. I refer to Document 8 and note that this deals principally with the attenuation of noise from streams of traffic, which is not the case here. Despite your detailed examination of the nature of pine forests, I conclude that a hedge would have no appreciable effect on noise received by any dwelling. I note that the document draws attention to the ineffectiveness of barriers in eliminating sound, and the need for them to be impervious to be effective in reducing noise. I am not therefore convinced that a 6 ft high fence could be effective in eliminating disturbance in terms of its height, and that if it were, it could be maintained as impervious over a period of years.

16. It is my view that the degree of disturbance to nearby residents would be acceptable only if outweighed by very substantial and proven benefits elsewhere. There was a difference of opinion between you and the council over the public benefits which may accrue by the provision of the car park relieving congestion and improving safety in the High Street. However no evidence of a poor accident records was brought forward, and I do not consider that the evidence of a single accident involving a vehicle emerging from the present car park, masked by a parked vehicle, points to the desirability or otherwise of the project.

17. Similarly no quantitative evidence of demand for car parking has been put forward, nor in my view has any link been established between the provision of the car park and the relief of congestion on the High Street. The only evidence beyond the generally held view of local residents and the Parish Council that there is a shortage of parking, is provided by the photographs taken on a Saturday and submitted by you, and conditions as they were at the time of the site visit on a weekday lunchtime. I note that there are no waiting restrictions or other controls on the duration or location of parking; that parking is generally disorganised; that much of it takes place on the forecourts of shops and public houses, and at the time of my visit it was possible to park 2 cars close to The Bell and for space to be reserved on the frontage for an expected delivery vehicle. In the absence of better evidence I conclude that

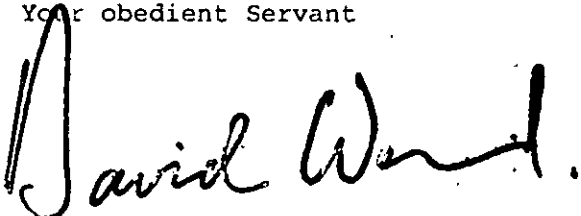
much of the parking in the street at lunchtime, which is when you expect the car park to be used, is not associated with the public house, and therefore would not be removed by the proposed car park. Users of the car park would thus tend to be new custom, and little benefit to the public in improved conditions in High Street would be likely to emerge.

18. I do not therefore consider that there are public benefits which outweigh the disadvantages of the project to individuals, and in my view the proposal would be contrary to the policies of the Dacorum District Plan.

19. I have taken into account all other matters raised at the inquiry, and also national policy to support small businesses set out in Circulars 22/80 and 14/85 and I do not find that they outweigh the planning considerations which have led me to my decision.

20. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss your client's appeal.

I am Gentlemen
Your obedient Servant

A handwritten signature in black ink, reading "David Ward". The signature is written in a cursive style with a large, stylized initial 'D'.

DAVID WARD BSc(Hons) CEng MICE FIHT
Inspector