



The Planning Inspectorate

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Mr D Clarke
47 Gravel Lane
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HP1 1SA

Your Ref:

PLANNING DEPARTMENT 9767
DACORUM BOROUGH COUNCIL

ACK

Date:

Admin.

Fee

T/APP/A1910/A/97/284026/P8

28 NOV 1997

received - 1 DEC 1997

Comments

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR DAVID SELWOOD
APPLICATION NO: 4/00655/97/FUL

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Dacorum Borough Council to refuse planning permission in respect of an application for change of use from residential to day nursery at Darley Ash Farm, Chipperfield Road, Bovingdon. I have considered the written representations made by you and by the Council. I have also considered those representations made directly to the Council which have been forwarded to me. I inspected the site on 22 October 1997.

2. The main issue before me in this appeal is the effect which implementation of the appeal proposal would have on the amenities which those living nearby can reasonably expect to enjoy.

3. The development plan for the area consists of the Hertfordshire County Structure Plan and the Dacorum Borough Local Plan. The site lies within the Metropolitan Green Belt, but the Local Planning Authority accepts that the proposed change of use would be appropriate development within it. It also accepts that the change of use would not be contrary to Local Plan Policy 14, which deals with the retention of housing. The Council draws my attention, however, to Local Plan Policy 8. This deals with quality of development, and provides that development will not be permitted unless, among a long list of other criteria, it avoids harm to the surrounding neighbourhood and adjoining properties through, for example,....noise [and] disturbance. Section 54A of the 1990 Act requires me to determine this appeal in accordance with the development plan unless material considerations indicate otherwise.

4. The Council's chief concern is with the effect of the development on the occupants of Darley Ash Lodge; the garden of the appeal houses, all of which is shown on the application plan as falling within the appeal site, abuts that of Darley Ash Lodge. The Council fears that children attending the day nursery would cause unreasonable disturbance and noise when playing in the garden.

100%



An Executive Agency in the Department of the Environment, Transport and the Regions, and the Welsh Office

Recycled Paper

5. Although there is no objection from the occupants of Darley Ash Lodge before me, it is right that their interests, and those of their eventual successors, should be considered. Although the appeal site is in a semi-rural area, it is not entirely quiet: the road is busy, and, as was apparent during my visit, there is noise to be expected from time to time from the working farm the buildings of which are close both to the appeal buildings and to Darley Ash Lodge. You suggest that the garden area for children's play could be restricted to that furthest from Darley Ash Lodge. I saw during my visit that a close-boarded fence had been partly erected; this would, when completed, divide the garden roughly in half along a north/south alignment. In my opinion the noise of children playing in the part of the garden to the west of the line of this fence would not be so disturbing to those living nearby as to justify a refusal of planning permission.

6. I note also the objections to the proposal raised by Mr Joseph; he lives at Rent Street Barns, immediately to the west of the areas proposed for car parking in connection with the day nursery. He fears noise, disturbance and fumes arising from the use of these parking areas. The Local Planning Authority does not, however, raise similar objections, and having looked carefully at the relationship between Rent Street Barns and the appeal site during my visit I think the authority is right not to do so. Any disturbance caused by use of the parking areas would be both infrequent and short lived, and would not in my view be significant bearing in mind road traffic and farm activity nearby. Mr Joseph's fears as to the amount of traffic that would be generated along Chipperfield Road are not shared by the Highway Authority; and his suggestion that the surroundings would be dangerous for the children attending the day nursery is more for consideration by the authority responsible for licensing the nursery than by me in the context of this appeal.

7. I have considered all the other matters raised in the representations before me, but these do not outweigh the considerations that have led me to decide that this appeal should be allowed.

8. In addition to the statutory "time" condition it seems right to impose conditions governing the provision of parking spaces and the hours of operation of the nursery as suggested by the Local Planning Authority, for the reasons which it gives. I agree with you, however, that the times proposed by the Council are unduly restrictive for a day nursery, and I will substitute those asked for by your client. It seems necessary also to impose a condition relating to the use of the garden as a play area (paragraph 5 above). I will word the conditions following the advice set out in circular 11/95.

9. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for change of use from residential to day nursery at Darley Ash Farm, Chipperfield Road, Bovingdon in accordance with the terms of application No 4/00655/97/FUL dated 25 April 1997 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this letter.

2. The use hereby permitted shall not begin until the areas shown as being reserved for parking on application plan No 9737/1 have been surfaced and demarcated in accordance with details submitted to and approved in writing by the Local Planning Authority, and those areas shall not thereafter be used for any purpose other than the parking of vehicles.
3. The use hereby permitted shall not begin until a play area in the western part of the garden has been demarcated in accordance with a scheme submitted to and approved in writing by the Local Planning Authority; and no part of the application site outside the area so demarcated shall be used for the outside play of children attending the day nursery.
4. The use hereby permitted shall not operate outside the following hours:

0730 hrs to 1900 hrs Monday to Friday inclusive.

10. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

11. The developer's attention is drawn to the enclosed note relating to the requirements of the Building Regulations 1991 with respect to access for disabled people.

12. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully

A. N. Marshall

A N Marshall MA (Oxon) Solicitor
Inspector



PLANNING

MR D CLARKE
47 GRAVEL LANE
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HP1 1SA

Applicant:
MR D SELWOOD
DARLEY ASH FARM
CHIPPERFIELD ROAD
HEMEL HEMPSTEAD
HERTS
HP3

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/00655/97/FUL
CHANGE OF USE FROM RESIDENTIAL TO DAY NURSERY
DARLEY ASH FARM, CHIPPERFIELD ROAD, BOVINGDON, HEMEL
HEMPSTEAD, HERTS, HP3

Your application for full planning permission dated 25 April 1997 and received on 30 April 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning
Dacorum Borough Council
Civic Centre
Marlowes
Hemel Hempstead
Herts
HP1 1HH

Date of Decision: 19 June 1997

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00655/97/FUL

Date of Decision: 19 June 1997

The proposed use would result in noise and disturbance to the occupants of Darley Ash Lodge, reducing their amenities to a level below that which they would normally expect to enjoy. The proposal would therefore be contrary to the aims of Policy 8 of the Dacorum Borough Local Plan.