

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To T. Spinks, Esq.,
24 Eastnor,
Bovingdon,
Herts.

..... Use of land as residential garden and garage
..... forecourt and realignment of fence
at Land rear of 22-32 (evens) Eastnor,
..... Bovingdon.

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
... 17th April, 1980 and received with sufficient particulars on
... 2nd June, 1980 and shown on the plan(s) accompanying such
application..

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

1. The proposed development would intrude and detract from the open appearance of Hyde Lane, a public highway, to the general detriment of the amenities of the locality.
2. The proposed development would result in the highway being restricted to an unacceptable width preventing vehicles from gaining access to land beyond the application site.

Dated 10th day of July 19 80

Signed..... 

Designation **DIRECTOR OF TECHNICAL SERVICES**

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, Whitehall, London, S.W.1.) 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

Room 1308

PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

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Ref.

Ack.

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CHIEF EXECUTIVE

13 APR 1981

Received

13 APR 1981

Mr G Knott
3 Ashurst Road
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Comments

Refer to

Your referenced

Our reference

T/APP/5252/A/80/13705/G8

Date

10 APR 1981

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 2 59
APPEAL BY T SPINKS ESQ
APPLICATION NO:- 4/0862/80

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for use of land as residential garden and garage forecourt and realignment of fence at land rear of 22-32 (evens) Eastnor, Bovington. I have considered the written representations made by you and by the council and also those made by other interested persons. I inspected the site on 9 March 1981.
2. The appeal site is an area of land in Hyde Lane south of its junction with Old Dean in the village of Bovington adjacent to the rear boundary fence of the 6 dwellings and garage forecourt of 22-32 Eastnor. Hyde Lane to its junction with Old Dean is used by vehicular traffic with footways on either side. Beyond the junction with Old Dean, Hyde Lane becomes a metalled footpath on its south western side bounded by a 1.8 m high close boarded fence forming the boundary of 22-32 Eastnor and the appeal site and on the north east a substantial double hedge. Beyond the fence on the south west side is a small green area with a small pumping station and beyond the hedge on the north east is the entrance to land unused at present although part forms a surface water drainage pound. Beyond this point the lane narrows and is bounded on either side by thick hedge-rows. It is proposed to move the fence behind 22-32 Eastnor some 4.5 m to the north east.
3. The main issues in this case are whether the proposed development would intrude and detract from the open appearance of Hyde Lane which is a public highway maintainable at public expense to the general detriment of the amenities of the locality and whether it would result in the highway being restricted to an unacceptable width.
4. From my inspection of the site I am satisfied that the area of land between the fence at the rear of 22-32 Eastnor and the metalled footpath for a large part of the year is untidy and overgrown and a depository for rubbish of various kinds. I accept that your client and his neighbours, although wishing to enlarge their gardens by moving their rear boundary fences as proposed, are mainly motivated by concern at the untidy state of the lane behind their boundary. Nevertheless the lane retains a pleasing rural appearance and I am of the opinion that narrowing the lane at this point by moving the rear fence of 22-32 Eastnor to the extent proposed would unacceptably detract from its rural appearance and be generally detrimental to the amenities of the locality.


5. The local planning authority states in the written representations that under current and proposed policies Bovingdon will be treated as a village where infilling development will be permitted within a defined area and that the land to the east of the appeal site at present unused is potentially available for residential development. This being the case they consider as Hyde Lane is the most practical means of access to the site it should be retained at a sufficient width to allow satisfactory vehicular access to this site and I am of the opinion this is an acceptable precaution and accept that moving the fence as proposed could prejudice the vehicular access should development of the unused land to the east materialise.

6. I also note that a few times a year it is necessary for vehicles to use Hyde Lane to service the existing pumping station. Although the width of the vehicle access for this purpose can be considerably less than that which would be necessary if serving a residential development, I am of the opinion it should not be less than that necessary to allow the unrestricted passage of a large vehicle and that moving the fence to the extent proposed would inhibit this.

7. I have considered all other matters raised in the written representations but am of the opinion that they do not carry sufficient weight to override the considerations that have led to my decision.

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

I am Sir
Your obedient Servant


A MacINNES CVO CEng FIMechE FBIM
Inspector

APPEAL UNDER SECTION 36 TOWN AND COUNTRY PLANNING ACTS 1971-1977
BY T. SPINKS, ESQ., AGAINST THE DECISION OF DACORUM DISTRICT COUNCIL
TO REFUSE PLANNING PERMISSION FOR THE USE OF LAND AS RESIDENTIAL
GARDEN AND GARAGE FORECOURT AND REALIGNMENT OF FENCE AT LAND REAR
OF 22-32 (EVENS) EASTNOR, BOVINGDON.

WRITTEN REPRESENTATIONS OF DACORUM DISTRICT COUNCIL

LOCAL AUTHORITY REFERENCE: 4/0862/80

DEPARTMENT OF ENVIRONMENT REFERENCE: APP/5252/A/80/13705

1. THE PLANNING DECISION

1.1 On 10th July, 1980 Dacorum District Council as local planning authority refused planning permission for the use of land as residential garden and garage forecourt and realignment of fence at land at the rear of 22-32 (evens) Eastnor, Bovington, for the following reasons:-

- "1. The proposed development would intrude and detract from the open appearance of Hyde Lane, a public highway, to the general detriment of the amenities of the locality.
2. The proposed development would result in the highway being restricted to an unacceptable width preventing vehicles from gaining access to land beyond the application site."

The appeal has been lodged against this decision.

2. THE SITE AND SURROUNDINGS

2.1 The appeal site comprises an area of land about 4.5 m. to 6.0 m. (15-20 ft.) wide and about 47 m. (170 ft.) long situated adjacent to the rear boundary fence of six dwellings and garage forecourt within an adjoining residential estate known as Grange Farm. The site forms part of Hyde Lane just south of its junction with Old Dean. Hyde Lane links Chesham Road, (the B4505 between Hemel Hempstead and Chesham) to the north-west and Green Lane, a classified road C.73, to the south-east. Between Chesham Road and Old Dean, it is used by vehicular traffic with footways on either side, one having been constructed as part of the Grange Farm development on the "inside" of the former field hedge. However, south of Old Dean, although designated as a County highway, it comprises a metalled footpath with wide verges shown on the definitive footpaths map as a "road used as a public path" (and additionally as a "carriageroad bridleway") and it is part of the verge of this highway that the appellant wishes to enclose.

2.2 The relationship to surrounding development and land use is shown on plan No. 1.

3. DEVELOPMENT PLANS AND POLICIES

3.1 The site is within an area without notation on the Approved County Development Plan and also on a non-statutory review of the Development Plan entitled "Hertfordshire 1981" approved by the County Council in 1972.

3.2 In September 1979 the Secretary of State for the Environment approved the County Structure Plan.

3.3 The District Council is at present preparing a District Plan, a local plan for the whole of the local authority's area. In October 1980, the Hertfordshire County Council "certificated" the draft Dacorum District Plan and it will shortly be placed on public deposit.

3.4 The site, and indeed the whole village, has been subject to "green belt" policies under the approved Development Plan though the village has been treated as one where infilling has been permitted on certain specified areas. The Grange Farm development to the west of Hyde Lane was allowed on appeal in 1972 (APP/2142/A/52784 and 63460); until that development took place Hyde Lane formed a marked south-west boundary of the village. Under current and proposed policies, Bovington will still be treated as a village where infilling development will be permitted within a defined area, and the appeal site falls within such an area.

4. COMMENTS ON APPELLANT'S GROUNDS OF APPEAL

4.1 The land the subject of the appeal is part of a highway maintainable at public expense and the proposal the subject of this appeal would also necessitate stopping up part of the highway under legislative powers contained in various Acts of Parliament, as well as the need for planning permission. The Hertfordshire County Council is the highway authority for the area and the County Surveyor ~~has been asked whether he wishes to~~ make further representations which will be forwarded independently.

4.2 The proposal seeks to utilise the land the subject of the appeal as an extension of the rear gardens of Nos. 22, 24, 26, 28, 30 and 32 Eastnor as residential garden land, together with the extension of a garage forecourt serving two blocks of domestic garages in a single courtyard. The land is to be enclosed by a close-boarded fence.

4.3 In the vicinity of the appeal site, the highway boundary comprises, on the south-western side, a 1.8 m. high closeboarded fence forming the rear boundary to the dwellings fronting Eastnor, and, on the north-east side, a substantial "double hedge". The effective width (i.e. excluding hedge thickness) of the highway varies between a maximum of 10 m. at the junction of Old Dean to between 3 and 5 m. further to the south-east.

4.4 Hyde Lane south-east of Old Dean retains its character as a country bridleway albeit that development has taken place on either side. For much of its length, there are hedgerows on either side and it is only in the vicinity of the appeal site that the Grange Farm development is bounded by a fence. Nevertheless, the highway retains a rural appearance despite the close proximity of residential development in part on either side. The land falls from the junction with Old Dean thence rises beyond the junction of the footpath leading to Farnham Close/Claverton Close. Hence the appeal site is extremely prominent for users of the highway and it is considered desirable that the residential development of Grange Farm should be kept within the confines of the former field boundaries without intruding into the general highway scene; the enclosure of the land the subject of the appeal would have the effect of imposing an urban form of development into a generally open vista.

4.5 To the south-east of the appeal site, situated adjacent to Nos. 20 and 22 Eastnor is a small green area upon which has been constructed a drainage pumping station. This serves the Grange Farm development and pumps to a system to the south at the junction of Green Lane/Bovington Green Lane/Bovington Green. It is necessary for vehicles to use Hyde Lane

to service the pumping station and such servicing facilities must be available at all times for commercial vehicles to reach the site. Whilst in practical terms it is unlikely that the largest of vehicles would visit the site, nevertheless large vehicles for servicing, maintenance and repair must be able to gain access to the site. The proposed development would reduce the width of the highway to between 2 m. and 4 m. which is considered unacceptable to cater for the needs of such traffic together with the pedestrian and bridleway needs already utilising the highway.

4.6 Land to the east of the appeal site is at present unused although part forms a surface water drainage pound owned by the Home Office serving the former airfield to the north of the village and still performs a drainage function. As stated in paragraph 3.4 above, further development would be permitted within the confines of the village providing the local planning authority accepts this unused land as being within the policy criteria for development (which seems likely) and providing that the existing drainage use could be removed, the site is potentially available for residential building. Hyde Lane is the only practical means of access to the land and development of the appeal site will reduce the available width of the highway preventing a satisfactory means of access being obtained to the land. The Secretary of State for the Environment is, in para. 8 of Annex A of his Circular 22/80, exhorting local authorities to consider identifying land other than that included within the five year supply of residential building land as required by Circular 9/80. It would therefore appear prudent not to permit development such as that the subject of this appeal which will inhibit the potential use of other building land.

5. CONCLUSIONS

It is considered that the proposal, the subject of the appeal, would have a marked impact in the locality to the detriment of amenities generally. Moreover, such development would obstruct the highway such as to prevent vehicular access to and from other land. Therefore, the Secretary of State is respectfully requested to dismiss this appeal.