

Town Planning

Ref. No. 4/0972/75 ..

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No. 1653/75D ..

THE DISTRICT COUNCIL OF

DACORUM

IN THE COUNTY OF HERTFORD

To Barclays Bank Ltd.,
Fenchurch Street,
London.

Agents: Priestman Williams and Bennett,
32 Bridge Street,
Hitchin, Herts.

Demolish part of rear & erect two storey extension

at 65 High Street, Tring.

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 permit the development proposed by you in your application dated 27th October, 1975 and received with sufficient particulars on 30th October, 1975 (As amended 15/1/76) and shown on the plan(s) accompanying such application, subject to the following conditions:—

- (1) The development to which this permission relates shall be begun within a period of five years commencing on the date of this notice.
- (2) The materials used externally shall match those on the existing building of which this development shall form a part.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:—

- (1) To comply with the requirements of Section 41 of the Town & Country Planning Act, 1971.
- (2) **To ensure the appearance of the development is satisfactory.**

Dated.....19th.....day of.....January.....76

Signed.....
Director of Technical Services.
Designation

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 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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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

Becket House, Lambeth Palace Road, London, SE1 7ER

Telephone 01-928-7855, Ext 110

The District Secretary
DACORUM D.C
TOWN HALL
Wemel Hempstead, Herts

Your reference

JHS/95/2525/204

Our reference

APP/5252/A/76/3691

Date

16/7/76

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1971

I enclose copies of a notice of a local inquiry into an appeal made to the Secretary of State for the Environment under Section 36 of the above Act.

The purpose of this letter is to request the Council to give information about the inquiry at least 4 weeks before the date of the inquiry to those owners and occupiers of property near the site and others who are considered by the Council to be affected by the proposed development; the Council are asked to include any persons or bodies of persons (e.g. Preservation Societies) who made representations either for or against the proposal at the application stage.

The information sent to those persons should, it is suggested, identify the land, describe the development proposed and indicate the Council's reasons for refusing permission or, where the appeal arises from conditions, for attaching those conditions. It should also mention that they may attend the inquiry and at the Inspector's discretion give their views or may, if they cannot or do not wish to attend or have someone attend on their behalf, given their views in writing. They should be warned that views given in writing will be disclosed to the parties to the appeal and are liable to be read out at the inquiry.

The address to which views may be sent to reach the Department before the inquiry should be stated.

The Secretary of State considers that the press should normally be notified of local inquiries.

The Council's attention is drawn to the provisions of the appropriate Inquiries Procedure Rules under which the local planning authority must serve on the appellant and on any section 29 parties, a written statement of the submission which they propose to put forward at the inquiry, and supply a copy of the statement to the Secretary of State. This must be done at least 28 days before the inquiry.

Yours faithfully

S. J. Bone

5. I appreciate that the present proposal differs in some respects from that which was the subject of your earlier appeal, which was dismissed in September 1975. In particular the plan then submitted showed an access road running the length of the site, whereas the present application leaves the length of the access for later approval. There was, moreover, no proposal for a visual leisure area in the earlier application. However, neither of these factors can, in my view, overcome the main objection to the proposal, quite clearly stated in the previous decision letter, that it would be an undesirable intrusion into open country, outside the clearly recognisable limits of the village.

6. I also recognise that the basis of this appeal differs from that of the last, in that you are this time relying mainly on the decision in *Sampsons Executors v Nottinghamshire CC* (1949 2 KB 439) in which, you say, Lord Chief Justice Goddard held that "the bringing of agricultural land into the curtilage of a dwellinghouse involves a material change of use of land". This appears to be a paraphrase of a passage in that judgement, which reads:

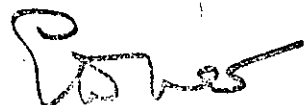
"But, as I understand the argument which has been addressed to us in support of the contention that some additional sum should be awarded, it was said that an owner of neighbouring property might bring the land within the curtilage of a dwellinghouse, because he might put up a dwellinghouse on adjacent land which was not subject to restriction, or for the development of which permission could be obtained, and that the land in question could be brought within the curtilage of that dwellinghouse, and that, by section 12 sub-section 2(d), that would not be a "development" within the meaning of the Act. I think that that argument is fallacious, because once such an owner brought the land, which is at present agricultural land, within the curtilage of his dwellinghouse, so that it became part of the dwellinghouse, he would be altering the use of the land, and that is prohibited by section 12, sub-section 1. I think, therefore, that the arbitrator should not add anything to the value of the land on account of that consideration."

7. I am not persuaded by this argument, although I accept that this land came under the same ownership as the bungalow, Lingwood, before 1 July 1948, and was later transferred to the same ownership as 1 Chesham Road, which adjoins both Lingwood and the site. Assuming that this large rectangle of land, about 3 acres, could correctly be described as part of the curtilage of first Lingwood, and now of 1 Chesham Road (and I am not altogether convinced that it would), planning permission would still be required to build on it. The fact that a site lies within the curtilage of a dwellinghouse carries no presumption that permission will be granted, although it could be one of a number of factors which might need to be considered. I have also considered all the other matters raised in the course of the inquiry, but can see no reason to reach any other decision.

8. Applications for costs were made on behalf of yourself and your brother, and on behalf of the council; I have reported both to the Secretary of State.

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

I am Sir
Your obedient Servant



E D CREW CB MA FRAcS
Inspector