

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Amalgamated Builders Ltd
36 Frogmore Street
Tring HP23 5AU

Messrs Howard Fawcett & Partners
Chandos House
Back Street
Wendover HP22 6EB

..... Residential Development (6 Flats)
.....
at Land at rear of 101 High Street, Tring
..... Herts

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 3.6.88 and received with sufficient particulars on 7.6.88 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—
The proposal represents a gross overdevelopment of the site which would affect adversely the visual and general amenities and detract from the character of the area, and have a seriously detrimental effect on the amenities and privacy at present enjoyed by occupants of adjacent dwellings.

- (2) The proposed development would result in the loss of one tree, and be potentially harmful to the health and long term future of other trees that are protected by a Tree Preservation Order. Loss of these trees would be seriously detrimental to the character and appearance of the site in a designated Conservation Area.
3. The proposal as submitted does not provide for the required turning head, kerb radii or visibility sight lines on land within the control of the applicant, to meet standards adopted by the local highway authority.

Dated Eighth day of September 19 88

Signed

Chief Planning Officer

SEE NOTES OVERLEAF

P/D. 15

NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.

PLANNING APPEALS - CODE OF PRACTICE
FOR HEARINGS

1. Appeals to the Secretary of State under Section 36 of the Town and Country Planning Act 1971 are, in general, transferred for determination by a person appointed by him ("the Inspector"). The appellant and the local planning authority have the right to appear before and be heard by the Inspector before he reaches his decision on such an appeal. In practice the Secretary of State will almost always provide for an appellant or local planning authority to be heard by way of a local inquiry if either of them wish. However, he may, in appropriate cases, offer them the alternative of a hearing. It is important that, in agreeing that the appeal should be determined following a hearing, both the appellant and the local planning authority understand and accept that whereas a local inquiry is subject to statutory rules of procedure*, a hearing will be conducted in accordance with the non-statutory procedure set out in this code of practice. Both procedures are, of course, designed to embody the rules of natural justice.
2. This code contains the procedure which the appellant and the local planning authority will be invited to follow where a hearing has been agreed to. This procedure is intended to save the parties time and money and to allow for the Inspector to lead a discussion about the matters at issue. The aim is to give everybody, including interested third parties, a fair hearing and to provide the Inspector with all the information necessary for his decision, but in a more relaxed and less formal atmosphere than at a local inquiry.
3. A hearing will not be appropriate if many members of the public are likely to be present; if the appeal raises complicated matters of policy; if there are likely to be substantial legal issues raised; or if there is a likelihood that formal cross-examination will be needed to test the opposing cases.
4. It will be for the Secretary of State to decide whether a hearing would be an appropriate means of considering an appeal. When notification is received that either the appellant or the local planning authority wish to exercise their right to be heard, the Department will consider whether the case would be suitable for a hearing. If it is, both parties will be offered - normally within 5 working days of receipt of the notification - the choice between a local inquiry and a hearing. A hearing will be held if both parties agree to it; otherwise a local inquiry will be held. Each party should, within 7 working days of the date a hearing is offered to them, inform the Department whether or not the hearing procedure is accepted. They should bear in mind that where a hearing is held there is no entitlement to make an application for an award of costs, neither may they seek the issue of any form of summons to compel any person to attend a hearing.
5. The aim will be to arrange the hearing within 12 weeks from the date the parties agree to a hearing. Not less than 28 days notice of the arrangements for the hearing will be given. The local planning authority will send details of the arrangements to all those, other than the appellant, with an interest in the land and to all who wrote to them about the proposed development at the application stage. They will also give such other publicity to the hearing as they think advisable. Those notified of the arrangements for the hearing will be sent a copy of this code, and will be told by the LPA where and when they can inspect copies of the pre-hearing statements and any other associated documents. They will also be advised that they may, at the discretion of the Inspector, participate in the discussion at the hearing.

* The Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) Rules 1988 (SI 945) - which apply to appeals decided by Inspectors. In those cases where an appeal is to be decided by the Secretary of State, the relevant rules are The Town and Country Planning (Inquiries Procedure) Rules 1988 (SI 944).

6. An important element of this procedure is that the Inspector must be fully aware of the issues involved and the arguments likely to be made at the hearing, so that he can properly lead the discussion. It is therefore essential that at least 3 weeks before the hearing, and in any event no later than 6 weeks from the date of agreeing to a hearing, the appellant and the local planning authority provide a written statement containing full particulars of the case they wish to make at the hearing, including a list of any documents they intend to refer to. The statements will be passed to the Inspector to enable him to prepare adequately for the hearing. At the same time as sending their statement to the Department, the appellant and the local planning authority should send a copy to each other. When the parties agree to a hearing after notification that an inquiry will be held, any written statement already provided for the purpose of the inquiry will instead be used for the purpose of the hearing.

7. Failure to adhere to this timetable can be fatal to the procedure. If the Inspector cannot be provided with the necessary information in sufficient time before the hearing it may be necessary to delay or defer it, or to hold a local inquiry with procedure governed by statutory rules.

8. The arrangements for the hearing and the conduct of it will be designed to create the right atmosphere for discussion and to eliminate or reduce the formalities of the traditional local inquiry. To this end the accommodation provided for the hearing should also be informal and the Inspector and the parties should wherever possible sit round a table; a small committee room is frequently satisfactory and the more formal atmosphere of a council chamber should always be avoided.

9. If at any time before the hearing the appellant or the local planning authority decide that they no longer wish to proceed in this way, they should inform the Department forthwith and a local inquiry, with its more formal procedures, will be arranged instead. If either party comes to the view during the hearing itself that the informal procedure is inappropriate, they should explain their reasons to the Inspector who will, after seeking the views of the other party, decide whether an inquiry should be held instead. Alternatively, if it becomes apparent to the Inspector during the hearing that the procedure is inappropriate, he will close the proceedings and a local inquiry will be arranged.

10. The Inspector will conduct the hearing. After resolving any doubts about the application or plans, he will explain that the hearing will take the form of a discussion which he will lead.

11. The Inspector will then review the case as he sees it from his reading of the papers and any pre-hearing site visit that he has made. He will outline what he considers to be the main issues and indicate those matters for which he requires further explanation or clarification. This will not preclude the parties from referring to other aspects which they consider to be relevant.

12. The appellant will be asked to start the discussion. He may do this through an agent or adviser if he wishes but such representation is not essential. Written material should have been circulated and exchanged before-hand so that it is fully understood and will not normally need to be read out at the hearing. Every effort should be made by the parties to avoid introducing, at the hearing, new material or documents not previously referred to, as this may necessitate adjournment of the hearing to a later date and frustrate the objectives of the hearing procedure. If documents are made available at the hearing the Inspector will ask or allow questions on those points on which he or others taking part in the hearing require further information or clarification.

13. Those participating in the hearing will be encouraged to ask questions informally throughout the proceedings, subject only to the questions being relevant and the discussion being conducted in an orderly manner. The appellant will be given the opportunity to make any final comments before the discussion is closed.

14. It may appear to the Inspector that certain matters could be more satisfactorily resolved if he were to adjourn the hearing to the site, normally then to be concluded there. The Inspector would only do this when, having regard to all the circumstances, including weather conditions, he was also satisfied that:-

(i) the discussion could proceed satisfactorily and that no-one involved would be at a disadvantage;

(ii) all parties present at the hearing had the opportunity to attend; and

(iii) no-one participating in the hearing objected to discussion being continued on the site.

15. Unless the hearing is to be adjourned to the site, the Inspector will ask the appellant and the local planning authority at the hearing whether they wish him to visit the site in their company. If one of them expresses such a wish, the date and time of the visit will be arranged at the hearing. The appellant, landowner and representative of the local planning authority may attend the visit, as may any other person at the discretion of the Inspector with the consent of the landowner.

16. If the Inspector is to decide the appeal and thinks it appropriate he may offer to give informal advance notification of his decision. Provided that the appellant and the local planning authority agree, he will, normally within 24 hours of the hearing, write to them indicating his intention to allow (with conditions where relevant) or dismiss the appeal. This letter will not constitute the decision on the appeal. The formal decision letter, which will include a statement of the reasons for the Inspector's decision, will follow in due course and will be sent to all those that took part in the hearing.