

6/1119/78

TOWN & COUNTRY PLANNING ACTS 1971 and 1972

THE DISTRICT COUNCIL OF **WATFORD**
IN THE COUNTY OF HERTFORD

Mr. E. Fisher,
To 38 Watford Way,
Hendon,
LONDON,
NW4.

Messrs. Faulkners,
49 High Street,
KINGS LAMLET,
Herts.

| | |
|--|--|
| <p>..... Farm Building</p> <p>.....</p> <p>at Land off Frippdence Lane, Flamstead.</p> <p>.....</p> | <p>Brief description and location of proposed development.</p> |
|--|--|

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 27th July, 1978, and received with sufficient particulars on 28th September, 1978, 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 site is without notation on the County Development Plan and in an area referred to in the submitted County Structure Plan Written Statement within which there is a presumption against further development unless it is essential for agricultural or other special local needs - no justification has been proven to warrant departure from this principle.
2. The site lies within a proposed Agricultural Priority Area where, under the provisions of Policy 18 of the submitted County Structure Plan, the needs of farming and forestry will have priority over other activities. In the opinion of the local planning authorities the proposed use is neither an agricultural activity nor associated with agriculture and as such is in conflict with this policy.

Dated 26th day of October, 19 78.

Signed

[Signature]
Designation **Director of Technical Services.**

26/20

SEE NOTES OVERLEAF

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.

JA/P

D/41/5.7



Department of the Environment

Room 1304

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-210 245
Switchboard 0272-218911

24 JUL 1979

Messrs Faulkner's
Chartered Surveyors
49 High Street
KING'S LANSLEY
Herts
WD4 9HU

Your reference

PHF/GH/8112

Our reference

T/APP/5252/A/79/1190/G9

Date

23 JUL 79

010920

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR E FISHER
APPLICATION NO:- 4/1119/76

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 the erection in OS parcel 3684 of a building to replace one existing in OS 2271, off Friendless Lane, Flamstead. I held a local inquiry into the appeal on 27 June 1979.

2. From my inspection of the site and surroundings and the representations made at the inquiry, I am of the opinion that the determining issue is whether the development would conflict with the policy of giving priority to farming interests and the conservation of agricultural land in this area; and, if it would, whether the need for the development outweighs that objection.

3. Your client owns an irregularly-shaped area of about 16½ acres of grassland comprised in 3 fields roughly ½ mile north-west of Flamstead and with a frontage of about 400 ft to Friendless Lane. It forms part of a slightly elevated plateau and from OS parcel 2271 at its western end intermittent views over the surrounding countryside are obtained, particularly to the north-east. Mature hedgerows around and between the other fields (OS Nos 3634 and 4189), and a centrally located dip towards the east affecting both of them, conceal them from all but a fleeting glimpse obtainable from Hollybush Lane, 200 yds to the east.

4. You explained that your client lived at Hendon. He had acquired the land for the breeding and grazing of horses in April 1978 following the sub-division of Hollybush Farm some years earlier. He undertook there had been a period of almost 5 years of disuse. When he took possession there were a steel-framed shed about 30 ft x 25 ft at the north-western corner of OS 3684, since reconditioned to provide 6 loose boxes but at present used partly for storage; a dilapidated 2 bay steel-framed shed prominently situated in OS 2271; and a small 2 bay barn in OS 4289. There was no secure storage accommodation, toilet or tack room and thefts of equipment occurred almost immediately after occupation.

5. About £3,000 had been spent on bringing the grassland into condition, fencing, gates and the loose boxes. His proposal was to replace the shed in OS 2271, which could be seen from Friendless Lane and from local footpaths, by erecting in

OS 3684 a proprietary building of similar volume. This would provide storage, tack room, chow, toilet and other rear facilities. It was proposed to site a caravan nearby for periodic use by members of his family. An appeal against the council's refusal to permit that had been turned away by the Department for want of required publicity and a fresh application made.

6. There were now 3 mares, a gelding and a shetland pony on the land. One mare was loaned to your client and the pony belonged to a nearby resident who undertook day to day supervision of the animals. The others were owned by your client or members of his family. None was in foal at present. More would be kept on the land in due course when the problems of security and shelter for persons attending to them had been overcome. Though the future development had been described in correspondence as a 'stud farm' it was not intended to keep a stallion, nor was it the intention to establish an equestrian centre. The object was to sell the progeny and to make what was primarily a leisure-time activity financially self-supporting as far as possible.

7. It was misleading for the council to speak of the intended use primarily as a recreational one. About one-third of 600 bales of hay taken in 1978 had been sold off. This year it was thought that two thirds of up to 1,000 bales might be sold. The cropping of the land for hay and the grazing of the animals were agricultural uses.

8. There could be no material difference from a planning viewpoint between the keeping and breeding of horses and of other livestock. Hence, in the definition of agriculture contained in Section 290 of the Act, the word 'including' in parenthesis could not be meant in an exclusive sense. The development was thus not in contravention of policy 18 in the draft structure plan nor of the intentions underlying green belt control. That view was supported by a decision on appeal in 1977 (Document 7).

9. The building's impact on the local landscape would be slight, especially when compared to piggeries approved on appeal in 1976 (Document 6a). There was a positive gain through the removal of the prominent and unsightly building in OS 2271. Your client was however prepared to consider any recommendations concerning the modification or colouring of the new building.

10. It was legitimate to ask, as members of the authority apparently had asked (Document 5), where in the light of overlapping policies such development could take place. But no substantial objection on planning grounds had been demonstrated and the appeal should succeed.

11. The council pointed out that pending the approval of the structure plan and the detailing of its proposals in local plans, unallocated areas in the county were subject to a policy, approved in a development plan review of 1971, which permitted only such development as was admissible in the Metropolitan green belt. In such areas the test of acceptability was one of agricultural or other local need for the development. That had not been demonstrated in this case. Part of the land, (OS 2271) was within the Chilterns 'Area of Outstanding Natural Beauty'.

12. Moreover, the draft structure plan, which had been examined in public and on which the Secretary of State's proposed modifications had been published, differentiated between areas of 'agricultural priority' such as that around Flametead; and 'amenity corridors' in which recreational development and landscape improvement would be fostered.

13. The proposed building would be sited in a position which would be particularly prominent in the landscape. It would be a large building and its construction would be a major step towards the development and intensification of use for the breeding of horses. The proposed building would be a major step towards the development and intensification of use for the breeding of horses. The proposed building would be a major step towards the development and intensification of use for the breeding of horses.

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16. It was not accepted that the appellant's proposal could rank as an agricultural use, attention being called to the decision of the Queen's Bench divisional court in Belmont Park Ltd v Minister of Housing and Local Government and Another (Document 8). Through the use of your client had to date use of the land right to rank, it was clear that the proposed building would facilitate and support a use for recreational rather than agricultural purposes.

17. On that account the county council had, under the powers contained in paragraph 19 of Schedule 10 of the Local Government Act 1958, directed the district council to make reference in the refusal of permission to draft structure plan policy No 10, which related to agricultural priority areas.

18. I saw that the building is proposed to be sited in a position which is well screened, certainly in the current month. Objection of it might be made from nearby footpaths, but in my view it is unlikely to be injurious to amenity. The fact that one might have wished for a design more sympathetic in height to the local building traditions.

19. The erection of the building is argued to be justified by the use already made of the land; but its existence will plainly be a major step towards the development and intensification of use for the breeding of horses. The horses are unconnected with the farming of land and I am of the opinion that neither the present nor the proposed use is agricultural within the meaning set out in Section 290 of the Act. Both are however purposes appropriate in a rural area and thus not in principle in conflict with the aim of the green belt policy.

20. Having noted that one of its purposes is specifically 'to provide an area in which town dwellers can find recreation and enjoyment' and that there is at present no part of rural Hertfordshire to which it does not apply, I have concluded that conflict with green belt policy cannot be sustained as an objection to the proposal unless such uses are to be excluded altogether from the county, which has not been argued.

21. However the draft structure plan, which I have regarded as a material consideration, includes proposed policies which strongly favour the interests of agriculture against those of competing uses in the area around Flaxstead, and the interests of recreation elsewhere in the county. These policies survived the examination of the plan in public and are in their essential unaffected by the Secretary of State's published

modifications. I have no reason to believe they will not appear in the approved plan.

22. Though they do not altogether exclude recreational activity of low intensity from 'agricultural priority' areas, those policies do envisage its being confined to a linear system of ways adapted to the changing farming landscape. That appears to me to exclude the fragmentation and long term loss of productive land such as seems certain to follow the realisation of your client's intentions; and towards which the erection of the appeal building would be a crucial step.

23. Nothing but your client's ownership of the land suggests a need to establish the intended activity at Flamstead and I have come to the conclusion that the present proposal, though small in scale, is incompatible with the draft policy for agricultural priority areas and that the appeal must fail. I have taken into account all the other matters raised in the representations but none is of such weight as to have affected my decision.

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

I am Gentlemen
Your obedient Servant



P J FLATTS DipTP(Manc) FHEPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OFDACORUM.....

IN THE COUNTY OF HERTFORD

Mr. E. Fisher,
To 38 Watford Way,
Hendon,
LONDON,
NW4.

Messrs. Faulkners,
49 High Street,
KINGS LANGLEY,
Herts.

... Farm Building

at land off Friendless Lane, Flamstead.

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
..... 27th July, 1978, and received with sufficient particulars on
..... 28th September, 1978, 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 site is without notation on the County Development Plan and in an area referred to in the submitted County Structure Plan Written Statement within which there is a presumption against further development unless it is essential for agricultural or other special local needs - no justification has been proven to warrant departure from this principle.
2. The site lies within a proposed Agricultural Priority Area where, under the provisions of Policy 18 of the submitted County Structure Plan, the needs of farming and forestry will have priority over other activities. In the opinion of the local planning authorities the proposed use is neither as agricultural activity nor associated with agriculture and as such is in conflict with this policy.

Dated 26th day of October, 19 78.

Signed.....



Designation Director of Technical Services.

NOTE

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- (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.
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D/41/5.7



Department of the Environment

Room 1309

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 DTS
 CHIEF EXECUTIVE
 OFFICER

24 JUL 1979

eared

Messrs Faulkner's
 Chartered Surveyors
 49 High Street
 KING'S LANGLEY
 Herts
 WD4 9HU

Your reference

RHF/GM/8112

Our reference

T/APP/5252/A/79/1190/G9

Date

23 JUL 79

Gentlemen

010926

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
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2. From my inspection of the site and surroundings and the representations made at the inquiry, I am of the opinion that the determining issue is whether the development would conflict with the policy of giving priority to farming interests and the conservation of agricultural land in this area; and, if it would, whether the need for the development outweighs that objection.
3. Your client owns an irregularly-shaped area of about 16 $\frac{1}{4}$ acres of grassland comprised in 3 fields roughly $\frac{1}{2}$ mile north-west of Flamstead and with a frontage of about 400 ft to Friendless Lane. It forms part of a slightly elevated plateau and from OS parcel 2271 at its western end intermittent views over the surrounding countryside are obtained, particularly to the north-east. Mature hedgerows around and between the other fields (OS Nos 3684 and 4289), and a centrally located dip towards the east affecting both of them, conceal them from all but a fleeting glimpse obtainable from Hollybush Lane, 200 yds to the east.
4. You explained that your client lived at Hendon. He had acquired the land for the breeding and grazing of horses in April 1978 following the sub-division of Hollybush Farm some years earlier. He understood there had been a period of almost 5 years of disuse. When he took possession there were a steel-framed shed about 30 ft x 25 ft at the north-western corner of OS 3684, since reconditioned to provide 6 loose boxes but at present used partly for storage; a dilapidated 2 bay steel-framed shed prominently situated in OS 2271; and a small 2 bay barn in OS 4289. There was no secure storage accommodation, toilet or tack room and thefts of equipment occurred almost immediately after occupation.
5. About £3,000 had been spent on bringing the grassland into condition, fencing, gates and the loose boxes. His proposal was to replace the shed in OS 2271, which could be seen from Friendless Lane and from local footpaths, by erecting in

OS 3684 a proprietary building of similar volume. This would provide storage, tack room, shower, toilet and mess room facilities. It was proposed to site a caravan nearby for periodic use by members of his family. An appeal against the council's refusal to permit that had been turned away by the Department for want of required publicity and a fresh application made.

6. There were now 3 mares, a gelding and a shetland pony on the land. One mare was loaned to your client and the pony belonged to a nearby resident who undertook day to day supervision of the animals. The others were owned by your client or members of his family. None was in foal at present. More would be kept on the land in due course when the problems of security and shelter for persons attending to them had been overcome. Though the future development had been described in correspondence as a 'stud farm' it was not intended to keep a stallion, nor was it the intention to establish an equestrian centre. The object was to sell the progeny and to make what was primarily a leisure-time activity financially self-supporting as far as possible.

7. It was misleading for the council to speak of the intended use primarily as a recreational one. About one-third of 600 bales of hay taken in 1978 had been sold off. This year it was thought that two thirds of up to 1,000 bales might be sold. The cropping of the land for hay and the grazing of the animals were agricultural uses.

8. There could be no material difference from a planning viewpoint between the keeping and breeding of horses and of other livestock. Hence, in the definition of agriculture contained in Section 290 of the Act, the word 'including' in parenthesis could not be meant in an exclusive sense. The development was thus not in contravention of policy 18 in the draft structure plan nor of the intentions underlying green belt control. That view was supported by a decision on appeal in 1977 (Document 7).

9. The building's impact on the local landscape would be slight, especially when compared to piggeries approved on appeal in 1976 (Document 6a). There was a positive gain through the removal of the prominent and unsightly building in OS 2271. Your client was however prepared to consider any recommendations concerning the modification or colouring of the new building.

10. It was legitimate to ask, as members of the authority apparently had asked (Document 5), where in the light of overlapping policies such development could take place. But no substantial objection on planning grounds had been demonstrated and the appeal should succeed.

11. The council pointed out that pending the approval of the structure plan and the detailing of its proposals in local plans, unallocated areas in the county were subject to a policy, approved in a development plan review of 1971, which permitted only such development as was admissible in the Metropolitan green belt. In such areas the test of acceptability was one of agricultural or other local need for the development. That had not been demonstrated in this case. Part of the land, (OS 2271) was within the Chilterns 'Area of Outstanding Natural Beauty'.

12. Moreover, the draft structure plan, which had been examined in public and on which the Secretary of State's proposed modifications had been published, differentiated between areas of 'agricultural priority' such as that around Flamstead; and 'amenity corridors' in which recreational development and landscape improvement would be fostered.

13. The progressive development of the land as a stud farm would lead to the permanent loss to agriculture of this good general purpose farmland (grade III in the agricultural land classification); and to an unwarrantable fragmentation of land contrary to the interests of an efficient agriculture.

14. The proposed building would be visible from public footpaths, more particularly in winter and spring and, by reason of its colour and the materials of its construction would be an unattractive feature in the largely unspoilt local landscape.

15. The council's concern about disruptive influences on agriculture in the immediate area had led it to make a series of directions under the powers of Article 4 of the Town and Country Planning General Development Order (SI 1977 No 289). As a result, permissions granted in classes II, IV, VI and XXII of the Schedule to that order had been withdrawn in relation to neighbouring land and the permission in class VI withdrawn in relation to the appellant's land.

16. It was not accepted that the appellant's proposal could rank as an agricultural use, attention being called to the decision of the Queen's Bench divisional court in Belmont Farm Ltd v Minister of Housing and Local Government and Another (Document 8). Though the use your client had to date made of the land might so rank, it was clear that the proposed building would facilitate and support a use for recreational rather than agricultural purposes.

17. On that account the county council had, under the powers contained in paragraph 19 of Schedule 16 of the Local Government Act 1972, directed the district council to make reference in the refusal of permission to draft structure plan policy No 18, which relates to agricultural priority areas.

18. I saw that the building is proposed to be sited in a position which is well screened, certainly in the summer months. Glimpses of it might be obtained from nearby footpaths, but in my view it is unlikely to be injurious to amenity, despite the fact that one might have wished for a design more sympathetic in height and colouring to the local building tradition.

19. The erection of the building is argued to be justified by the use already made of the land; but its existence will plainly be a major step towards the development and intensification of use for the breeding of horses. The horses are unconnected with the farming of land and I am of the opinion that neither the present nor the proposed use is agricultural within the meaning set out in Section 290 of the Act. Both are however purposes appropriate in a rural area and thus not in principle in conflict with the aims of the green belt policy.

20. Having noted that one of its purposes is specifically 'to provide an area in which town dwellers can find recreation and enjoyment' and that there is at present no part of rural Hertfordshire to which it does not apply, I have concluded that conflict with green belt policy cannot be sustained as an objection to the proposal unless such uses are to be excluded altogether from the county, which has not been argued.

21. However the draft structure plan, which I have regarded as a material consideration, includes proposed policies which strongly favour the interests of agriculture against those of competing uses in the area around Flamstead, and the interests of recreation elsewhere in the county. Those policies survived the examination of the plan in public and are in their essentials unaffected by the Secretary of State's published

modifications. I have no reason to believe they will not appear in the approved plan.

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Your obedient Servant



P J PLATTS DipTP(Manc) FRPI
Inspector