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Common Services

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Council Ref: LDH/LMK

Your reference

GJG

Our reference

T/APP/M1900/C/85/2951/P6

Date

17 JUL 86



Mr G J Gaywood
1 Alexandra Road
KINGS LANGLEY
Herts
WD4 8DU

Sir

APPEAL DISMISSED

AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
AT PIX FARM LANE/SHARPES LANE, BOURNE END, HEMEL HEMPSTEAD

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Hertfordshire County Council concerning the above mentioned land. I have considered the written representations made by you and by the Council and also those made by other parties and interested persons and I inspected the site on Monday 19 May 1986.
2.
 - a. The date of the notice is 30 July 1985.
 - b. The breach of planning control alleged in the notice is the deposit of rubble and hardcore on the land.
 - c. The requirements of the notice are specified in Schedule 3 as:-
 1. Remove all hardcore and other material imported into the site.
 2. Restore the land to its original condition, including the importation and spreading of topsoil within one month of the coming into effect of this notice.
 - d. The period for compliance with the notice is as indicated in Schedule 3, namely one month.
 - e. The appeal was made on ground 88(2)(g).
3. The site identified on the plan which accompanied the notice borders the north bank of the Grand Union Canal for a distance of about 116 m eastwards from the bridge carrying Sharpes Lane over it. It has a frontage of approximately 38 m to the east side of Sharpes Lane with a 4 m wide entrance with double metal gates at the northern end of the frontage. The site widens to a depth of some 96 m over its eastern half and has a total area of 0.8 ha, or roughly 2 acres. Within it and occupying the south-western portion of it is a generally flat area of what appears to be loose ash covering hardcore and waste materials. This includes pieces of wire and metal reinforcing bars, old tyres, concrete blocks and subsoil. This area covers about 0.33 ha, and extends for about 90 m along the canal bank which is 4 to 5 m wide with a few hawthorn and scrub trees along it.
4. The northern part of the site mostly comprises a hummock which looks as if it has been dumped on the site for some time. It rises to a height about 2 m above the level of the ash covered portion. At its summit are 2 piles of rubble and waste

materials which appear to have been deposited more recently. Elsewhere on the site to the south and east there is natural scrub and wild growth. The ash filled area is separated from the rest of the site by an old strand wire fence, broken in parts including its north-western end where an access track leads to the 2 piles of rubble.

5. Sharpes Lane and Pix Farm Lane to the north of it are both narrow lanes without footpaths, and having carriageways about 2.5 to 3 m wide. Visibility from the site entrance, at a distance of 4.5 m back from the carriageway is practically nil. At the junction of the 2 roads it is some 120 m to the east and 60 m to the west. There are a few residential and some farm buildings around the junction and all of them have a prospect of the appeal site.

6. Both the County Council and the Borough Council have given details of the Structure and District Plan policies which apply to this area. The main point which arises from them is that because the site and its surroundings are within the green belt and the Chilterns Area of Outstanding Natural Beauty, and defined as an Amenity Corridor including other Sites of Natural History Interest and sites for Nature Conservation. The development which you have carried out has to be judged against the several restrictions applying under the policies.

7. My concern with this appeal is confined to the merits of the tipping operation and not to any considerations of your other proposal, which the Dacorum Borough Council have refused, in respect of a marina. I understand that matter may be the subject of an appeal under Section 36. The site of the present appeal is only a part of that site and therefore the issues involved are different. I consider that the issues in this appeal are mainly the effect of the present development on the character of the area generally, bearing in mind the policies, and on the implications for traffic movements on Sharpes Lane. While your appeal was only based on ground (g), I am obliged also to consider the planning merits of retaining the development because you are deemed to have made a planning application for it under the provisions of Section 88B(3).

8. On the first issue there are 2 aspects to be considered in relation to the character of the area. The first is concerned with the actual appearance of the surface of the area where tipping has taken place. Seen from the nearby properties on Sharpes Lane and at the junction with Pix Farm Lane it appears as a bare and alien feature in the otherwise green landscape. In addition the view of parked cars on it is wholly at odds with an undeveloped rural landscape. Your estimate of 30 or more cars, parked by fishermen using the lake to the east, would, in my opinion, convey the impression of activity which one would not expect to see in an open area such as this. Any effective landscaping to screen the view would take a considerable time to mature.

9. The second aspect bears on the loss of any vegetation which was there previously and which is claimed to have made a small but significant contribution to the local flora. I have no reason to doubt the combined evidence of both Councils and that of the Hertfordshire and Middlesex Trust for Nature Conservation and the Verulamium and City Museums on this point. All point to the value the site had for nature conservation training and education before the tipping took place. I appreciate that the lower lying land around the water features to the east probably contains much more and a greater variety of plant and aquatic life but the opportunity for maintaining any rare species, or even increasing them, should be taken.

10. Regarding the traffic issue I can well understand your argument that it is better to have parked cars off Sharpes Lane than on it. In that respect I would not disagree that the narrowness of both roads leading to the site and the poor visibility along them and at junctions mean that obstructions of the carriageways is

to be avoided. However any use of the land to park cars, for whatever purpose, would also generate more traffic. That means more movements on and to Sharpes Lane via grossly inadequate junctions. While some improvements could be made there is little which could be done, short of major widening operations, to the bridge over the canal. Therefore I conclude that for all these reasons it would be contrary to sound planning practice, as recognised by the policies, for the subject development to be allowed to remain. Planning permission will not, therefore, be granted.

11. Turning to your appeal under ground (g) I agree that allowing the tipped area to revert to grass would overcome, at least partially, one of the above objections. However I do not consider that the materials which I saw to have been deposited there would be capable of sustaining an adequate degree of growth, even if good quality topsoil were to be spread over it. For that to happen in a low lying area such as this there would need to be a natural layer of subsoil without an excessive amount of inorganic material, and certainly not tyres and bits of metal. Therefore I do not think the first requirement to remove all the material deposited is unreasonable. On the second part of the requirement I am not sure that it would be entirely practicable for you to restore the land to precisely the same condition it was in originally without, for example, a detailed profile to be specified. The same effect, which I consider is a desirable objective, could be achieved by requiring simply the importation and spreading of topsoil as the notice requires. I shall amend that aspect accordingly.

12. You did not appeal on ground (h) but I have nevertheless considered whether one month allowed for this operation to be completed is sufficient. Having seen the size and likely volume of material I find this is an unreasonably short period for you to do this. Bearing in mind however, that it should be done well before the end of the current growing season I consider that 3 months is the most that could be allowed. I shall similarly amend the wording of the second requirement to enable this.

13. I have taken account of all the other matters raised in the representations including the benefit of the parking area to fisherman but I am not persuaded to come to another conclusion.

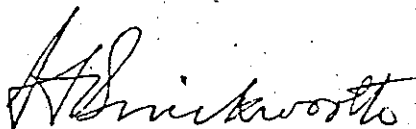
FORMAL DECISION

14. For the above reasons and in accordance with the powers transferred to me I hereby direct that the words "to its original condition including" be deleted from Schedule 3, item 2, and the word "by" substituted; similarly the period of one month specified in the same schedule be deleted and the period of 3 months substituted. Subject thereto I uphold the notice, dismiss the appeal and refuse to grant planning permission for the application deemed to have been made under Section 88B(3).

RIGHT OF APPEAL AGAINST DECISION

15. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Sir
Your obedient Servant



H BRINKWORTH BA DipTP MRTPI
Inspector