



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/1163/93

Northchurch Cricket Club  
Sports Ground  
Northchurch  
Berkhamsted  
Herts

C Geary  
135 Bridgewater Road  
Berkhamsted  
Herts  
HP4 1JR

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Northchurch Cricket Club, Tring Road, Northchurch

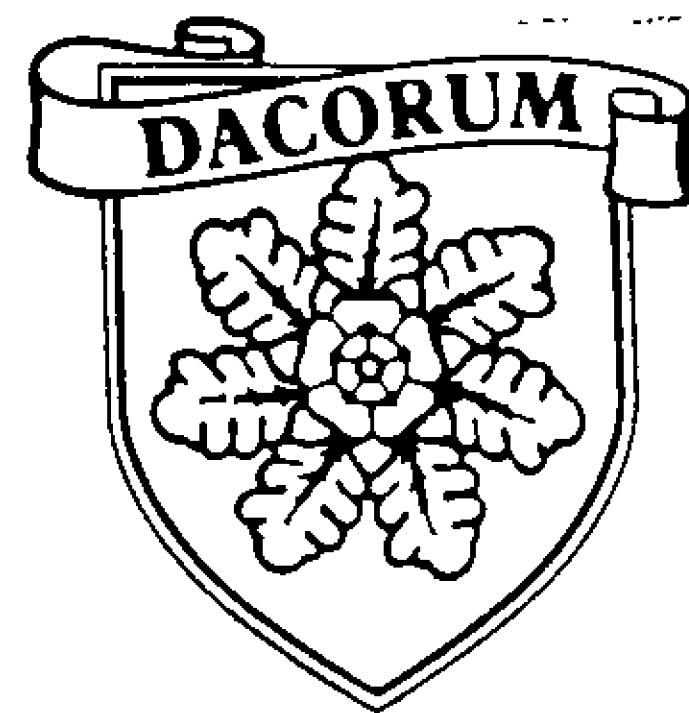
REPLACEMENT CLUBHOUSE

Your application for *full planning permission* dated 02.08.1993 and received on 25.08.1993 has been **GRANTED**, subject to any conditions set out on the attached sheet.

Director of Planning.

Date of Decision: 30.09.1993

(encs. - Conditions and Notes).



CONDITIONS APPLICABLE  
TO APPLICATION: 4/1163/93

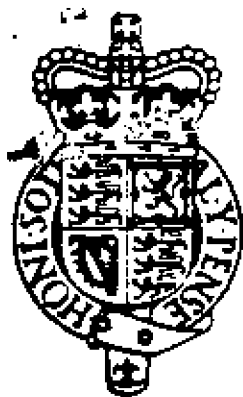
Date of Decision: 30.09.1993

1. The development to which this permission relates shall be begun within a period of five years commencing on the date of this notice.

Reason: To comply with the provisions of s.91 of the Town and Country Planning Act 1990.

2. No work shall be started on the development hereby permitted until details of materials to be used externally shall have been submitted to and approved by the local planning authority, and the development hereby permitted shall be carried out in the materials so approved.

Reason: To ensure a satisfactory appearance.

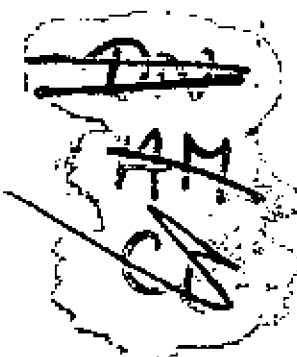


# The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Coxell & Associates  
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Kings Langley  
Herts  
WD4 9HR

DEPARTMENT OF THE ENVIRONMENT PLANNING INSPECTORATE				
Your reference: JPC/CC/KD				
Council reference: 4/1164/93EN				
Our reference: T/APP/C/93/A1910/630072				
Date: 8 JUN 94				
Received 9 JUN 1993				
Comments				

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6  
APPEAL BY MR K DUGLAN  
LAND AT BROOMHILLS SHOOTING GROUND, WINDMILL LANE, MARKYATE

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against an enforcement notice issued by the Dacorum Borough Council. I have considered the representations made by you and by the Council. I inspected the site on Wednesday 4 May 1994.

## The Notice

2 a. The date of issue of the notice is 7 July 1993.

b. The breach of planning control alleged in the notice is:

- (i) The excavation of soil to form a pit in which to burn waste materials and rubbish; and
- (ii) The formation of an earth mound.

c. The requirements of the notice are to:

- (i) Fill the pit to be level with adjacent land with material from the earth mound;
- (ii) Remove from the site all remaining material forming the earth mound.

d. The period for compliance with the notice is one month.

e. The Council's reasons for issuing the notice are:

The development is an environmentally unsatisfactory means of disposing of waste materials and rubbish, which is likely to have an adverse effect on nearby trees. It is also harmful to the amenity of this woodlands site. In respect of the earth mound, the changes of ground level may, in the long term, have an adverse effect on trees in this ancient woodland site.

3. The appeal is proceeding on grounds (a) and (c) as set out at section 174(2) of the 1990 Act. These are in effect (a) that permission should be granted for the alleged development and (c) that there has been no breach of planning control.

#### The planning background

4. Broomhills is a long established shooting ground with a full planning permission, covering about 25ha of which about a third consists of Broomhills Leys Wood. In September 1990 planning permission was granted on appeal for the construction of an extensive earth screening bund on land on the south west boundary of the site. This was completed last year and has been extensively planted with young trees in accordance with a landscaping scheme.

5. The development the subject of the enforcement notice lies in a wooded area of largely hornbeam copse to the north-east of the clubhouse and shop. The pit was dug to dispose mainly of cardboard boxes which have contained cartridges and clay pigeons. The spoil from this pit, along with that from various permitted developments on the site, was used to form the adjacent earth mound.

6. My inspection showed that the use of the pit has now ceased and it has been filled level with the surface. The earth mound has been extensively planted with young trees, similar to those of the bund allowed on appeal.

#### The appeal on ground (c)

7. You submit that the pit is little more than would be found in many domestic situations and that the earth mound is de minimis. You add that the earth forming the mound had resulted not only from the pit but various authorised works on the site. The Council point out that the pit extended over an area of some 4.7m x 7m and was 3-4m deep and measure the mound at 30m x 6m at its base, rising to about 6m. They take the view that operations on this scale cannot be regarded as de minimis.

8. You do not dispute the Council's figures and I take the view that operations on this scale lie some way beyond the threshold of what might be regarded as de minimis. I conclude that operational development requiring planning permission has been carried out and that the ground (c) appeal must consequently fail.

#### The planning merits

9. I now turn to the ground (a) appeal and the deemed planning application. I take the view that the notice has now been effectively complied with in respect of the filling of the pit and the cessation of its use for the burning of waste and rubbish. You have indicated that you do not intend to continue this use and I take the view that it would not be appropriate to do so. There only therefore remains before me the question of the retention of the mound.

10. I consider from the representations made and my inspection of the site and surrounding area that the central issue is whether the mound is materially damaging in the short or long term to the quality of the ancient woodland setting.

11. The mound, as you point out has now matured into the ground and I observed that it has been planted with young trees in a similar way to the more extensive bound that was allowed on appeal in 1990.

12. The Council's woodlands officer refers to the removal of a number of trees and also to the piling of soil around the trunks of others, which he considers may kill them over a period of time. He states also that the trees are mainly hornbeam coppice, dating 15-20 years since their last cut. It is apparent therefore that this is not a case where large mature trees are being affected. What is important in my opinion is that the nature and character of this part of the woodlands should be maintained. The half dozen or so young trees that have already been felled can only be replaced by new planting, which is already in place. It cannot be certain whether the other trees at the edge of the mound will be affected, there is however no evidence of this at present. In my opinion it is better that the status quo which has now been achieved should be maintained, rather than starting afresh on a razed site. I note that the notice does not require the replanting of any trees.

13. I have taken account of all the other matters raised but they do not outweigh the factors which lead me to the conclusion that the appeal should be allowed in respect of the mound but that the notice should be upheld in respect of the pit.

14. It follows from this conclusion that I will have to vary the notice accordingly. Since the pit has already been filled and the mound is to remain it is apparent that the fill should not come from the mound.

#### FORMAL DECISION

15. For the above reasons and in exercise of the powers transferred to me:

A. I hereby allow the appeal and quash the notice in respect of allegation (ii) and grant planning permission for the application for the formation of an earth mound on land at Broomhills Shooting Ground, Windmill Lane, Markyate deemed to have been made under section 177(5) of the 1990 Act, subject to the condition that any of the trees newly planted on the mound which within 5 years of the date of this permission die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority give written consent to any variation.

B. I hereby direct that the notice be varied by:

(i) the deletion of allegation (ii) from paragraph 3.

(ii) the deletion of the requirements at paragraph 5 of the notice and the substitution of the following words:

"Fill the pit to be level with the adjacent land".

Subject to the above variations I dismiss the appeal, uphold the notice and refuse the application for the retention of the pit deemed to have been made under section 177(5) of the 1990 Act.

16. This decision does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation, other than section 57 of the Town and Country Planning Act 1990.

17. Your attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of the permission hereby granted has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally, or if the local planning authority fail to give notice of their decision within the prescribed period.

#### **RIGHTS OF APPEAL AGAINST THE DECISION**

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

Yours faithfully

  
A D RABY BSc(Econ) ARICS MRTPI  
Inspector

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