

D/269/29.5



Department of the Environment

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TECHNICAL SERVICES DEPT	
PLANNING SECTION	
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FILE No.	
Your reference	

K W Farms Esq FRIBA
Woodcock Hill
BERKHAMSTED
Herts
HP4 3TR

001388

Our reference

T/APP/5252/A/79/12996/G6
Date

20 JUN 1980

OFFICE EXECUTIVE

23 JUN 1980

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MESSRS FARMS, FOLKARD AND WILTSHIRE
APPLICATION NO:- 4/1183/79

- 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 of one dwelling and garage on land adjoining Woodcock Hill, Durrants Lane, Berkhamsted. I have considered the written representations made by you and by the council and also those made by an interested person. I inspected the site on 28 May 1980.
- From the representations made, and my inspection of the appeal site and the surrounding area, I am of the opinion that the decision turns on the question of the effect of the proposed development on the character of the area.
- The appeal site is situated towards the top of Durrants Lane on high ground overlooking the valley in which Berkhamsted is located, the main part of the built-up area being to the east. A relatively new Middle School lies on the opposite side of Durrants Lane, but such residential building as exists in the vicinity is scattered and appear to be mainly of pre-planning age. The site is a walled orchard in the grounds of a large house, Woodcock Hill, now sub-divided into 3 residential units, and where several buildings formerly associated with the main house are now in residential use and are being or have been renovated, converted or extended for such use. One dwelling, Flint End, was built in the former farmyard as a result of a planning permission granted some time ago. The whole loose group of dwellings is divorced from the main built-up area of Berkhamsted and is set in pleasant wooded countryside.
- I have noted your views on the general question of the use of large country houses in parkland grounds and it seems sensible for such buildings as exist in addition to the main house at Woodcock Hill to be used for residential purposes where possible. But this in my opinion does not constitute a licence to erect a new dwelling on land for which there is no apparent use at a particular time. While I accept your present view that the remainder of the grounds, including the large vegetable garden, is adequate for use in connection with existing occupancies, there can be no guarantee that this situation would be maintained with any future owner and I am unable to agree that an apparent lack of beneficial use for the appeal site is adequate reason for allowing the erection of a new dwelling on the orchard. The fact that the dwelling would be screened to a large extent by the orchard walls is not in my opinion a cogent argument in its favour; a new dwelling would create additional activity in an area which is at present quiet and rural, and would not be in accord with the character of the area. I find no reason, therefore, to dissent from the provisions of the emerging District Plan.

5. I have considered all the other matters raised, including the spread of development along Shootersway, and the fact that one of Woodcock Hill owners wishes to retire to a smaller house, but in my opinion they are not strong enough to outweigh the considerations that have led me to my decision.

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

I am Sir

Your obedient Servant

A handwritten signature in dark ink, appearing to read 'A. H. Gibb', with a long horizontal flourish extending to the right.

A H GIBB MBIM
Inspector

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971).

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case may be, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Messrs. Farms, Folkard, & Wiltshire, K.W. Farms Esq., F.R.I.B.A.,
 Woodcock Hill, Woodcock Hill,
 Berkhamsted, Berkhamsted,
 Herts. Herts.

One dwelling

 at land adjacent to Woodcock Hill, Durrants Lane,
 Berkhamsted,

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 10th August 1979 and received with sufficient particulars on 13th August 1979 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.

Dated 13th day of September 19 79

Signed..... 

Designation Director of Technical Services

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.