

# TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF \_\_\_\_\_ DACORUM  
 IN THE COUNTY OF HERTFORD

To Mr P Latchford  
 38 Crouchfield  
 Boxmoor  
 Hemel Hempstead

Wm. F Johnson & Partners  
 39a High Street  
 Hemel Hempstead

Dwelling and building for storage and the fermentation  
 .....  
 and bottling of wine (outline)  
 .....  
 at Frithsden Vineyard off  
 .....  
 Roman Road, Frithsden  
 .....

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 permit, in accordance with the provisions of Article 5(2) of the Town and Country Planning General Development Order, 1971, as amended, the development proposed by you in your outline application dated .. 16th December 1982 .....  
 and received with sufficient particulars on ... 20th December 1983 .....  
 and shown on the plan(s) accompanying such application, subject to the following conditions:-

- 1 The development hereby permitted shall not be carried out otherwise than in accordance with detailed plans and drawings showing the siting, layout, design, landscaping and external appearance of the building(s) and the means of access thereto which shall have been approved by the local planning authority, before any development is commenced.
- 2 (a) Application for approval in respect of all matters reserved in Condition 1 above shall be made to the local planning authority within a period of .3. years commencing on the date of this notice.  
 (b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates:-  
 (i) the expiration of a period of .5. years, commencing on the date of this notice.  
 (ii) the expiration of a period of .2. years commencing on the date upon which final approval is given by the local planning authority or by the Secretary of State or, in the case of approval given on different dates, the final approval of the last such matter to be approved by the local planning authority or by the Secretary of State.
- 3 The dwelling hereby permitted shall not be occupied otherwise than by a person solely or mainly employed or last employed locally in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971 or in forestry and the dependents, widow widower of such person.
- 4 Details submitted in accordance with condition 1 hereof shall include appropriate cross sections indicating the base levels of each building relative to the gradients of the site.

NOTIFICATION OF DECISION

The reasons for the local planning authority's decision to grant permission for the development subject to the above conditions are:-

1. To comply with the provisions of Regulation 5(2) of the Town and Country Planning General Development Order, 1977, as amended.
2. To comply with the requirements of Section 42 of the Town and Country Planning Act, 1971.
3. **The site is within an area where policies adopted by the Local Planning Authority are to permit only development which is essential for agricultural or allied purposes.**
4. **To ensure a satisfactory development.**

The local planning authority has considered the application and the representations made by the applicant and the public and has decided to grant permission for the development subject to the above conditions. The local planning authority has also considered the representations made by the public and has decided to grant permission for the development subject to the above conditions.

Dated 24th day of February 1983

Signed.....

Designation **Chief Planning Officer**

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 Department of the Environment, Caxton House, Tothill Street, London SW1H 9LZ.) 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 (a), to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

(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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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.

(a) The statutory requirements are those set out in section 36(7) of the Town and Country Planning Act 1971, namely sections 29(1), 30(1), 67 and 74 of the Act.

14 JUN 1984

File Ref. ....  
Refer to ..... *CP6*  
Cleared .....Department of the Environment and  
Department of Transport

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Your reference PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL Our reference					
Ref. T/APP/A1910/A/83/004668/P5					
C.P.O.	D.P.	D.C.	B.C.	Admin.	File
✓		15	2 JUN 84		
Received <i>CPW</i>				14 JUN 1984 <i>TW</i>	
Comments					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY MR P G LATCHFORD  
APPLICATION NO:- 4/1499/82

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. The appeal is against the failure of the Dacorum District Council to determine within the appropriate time an application for the erection of a house with garage and an agricultural/processing/storage building at Frithsden Vineyard, Roman Road, Frithsden. I held a local inquiry into the appeal on 15 May 1984.
2. From my inspection of the site and surroundings, and from my consideration of the representations made by you, the council and interested persons, I am of the opinion that the decision in this appeal rests primarily on whether the retail sale of wine at the appeal site, for which your client seeks permission, as well as for the production and bottling of wine made from grapes grown on the site, as part of the proposed development would be so harmful to the amenities of persons living nearby, and to the character of the surroundings, bearing in mind Frithsden is a Conservation Area and the site is within the Chilterns Area of Outstanding Natural Beauty, that it is necessary to refuse permission for the proposed development.
3. This appeal has arisen because although the local planning authority decided to grant planning permission for the proposed development, this was to be subject to your client entering into an agreement under Section 52 of the Town and Country Planning Act 1971. After due consideration he decided that this would not be satisfactory to him. He found 2 of the clauses unacceptable; first that restricting the occupancy of the dwelling to persons employed in agriculture, and second that prohibiting the retail sale of wine and wine related products from the site. He has subsequently decided that a restrictive agricultural occupancy condition, as given in paragraph 14 of the Annex to Circular 24/73, would be acceptable, but he is still unwilling to accept the restriction on the retail sale of wine, although he would willingly agree that such sales should be restricted to wine made on the site from grapes grown there only.
4. Your client started the vineyard at Frithsden on a part-time basis as long ago as 1971 and has gradually built-up the business to the point where if further expansion is to take place it is necessary for him to live on the site to give proper attention to the vines, and to make and sell his wine there as his facilities for wine-making at his home in Boxmoor, some 4½ miles away, are totally inadequate even for the present level of production. For the present your client would continue to work as an engraver in Watford, but as soon as financial viability of the vineyard could be achieved he plans to cease his present employment and work full-time on the project.

5. From the evidence presented to me it is obvious that the local planning authority have given considerable thought to allowing the expansion of the vineyard at Frithsden, including the making and bottling of wine, contrary to the advice of their professional planning staff, and notwithstanding that the provisions of Circular 24/73 would not be fully met at present with regard to financial viability in terms of supporting a full-time worker. Despite the strong opposition of many local residents I find myself in agreement, in principle, with the council's decision. My conclusion is strongly influenced by the provisions of Circular 22/80 which seek to encourage small businesses whenever possible unless there are clear-cut reasons for refusal (a matter to which I will return later), and the fact that I am most impressed by the hard work put in by your client and his wife over a long period in building-up the business to its present advanced stage of development. I fully accept that the proposed dwelling and building are essential if the project is to expand further, and I do not consider it would be justified to refuse permission, as some local residents would wish, just because the site is subject to an Article 4 Direction, is in an Area of Outstanding Natural Beauty, adjacent to a Conservation Area, and that wine making (and bottling) is an industrial operation to be regarded as inappropriate in the countryside.

6. Ignoring for the present the effect of retail sales from the site, the implications of allowing the remainder of the proposed development are that there will be some adverse effect on the present character and peaceful rural tranquility of the area - from the presence of the additional buildings and the increased general activity - but this should be accepted in the interests of allowing what is considered to be an appropriate and beneficial use of the land. Perhaps the most harmful effect would be the use of the Roman Road which serves the site as it is narrow, has old dwellings adjacent to it in places, and is without passing places from the centre of Frithsden to the site entrance. The access itself is also unsatisfactory at present. However I am satisfied that when the full details of the development, including improvements to the access on which I will comment below, have been worked out, the problems could be satisfactorily overcome on the basis of acceptance that even agricultural or other appropriate uses of the land may not be entirely without some consequences on the scenic beauty of the countryside and the residential amenities of persons living nearby.

7. It should of course be appreciated by local objectors that but for the Direction under Article 4 of the General Development Order buildings for agriculture could normally be erected without planning permission. The purpose of this Direction is not usually to prohibit the erection of all such buildings but merely to be able to exercise control over them. In my opinion it would be quite wrong to refuse permission for such buildings genuinely required to support a bona-fide agricultural or horticultural enterprise such as a vineyard, although it is quite right to take care over their position and design. There are thus, in my view, strong reasons for allowing the proposed non-residential building on purely agricultural grounds in this instance, and I consider any further harm that would be caused by making wine from the grapes grown, and its bottlings, should be considered in this light. I do not regard it as inappropriate that the wine should be made and bottled at a vineyard, and I consider from the evidence given to me that the retail sales your client hopes to make cannot be regarded as a bonus on adequate profits that could be made from selling the wine wholesale, or even retail in some other location, but is rather an essential pre-requisite to the financial viability of the business. This latter consideration is the one about which I have the greatest doubts, and I am convinced the project would be a non-starter if retail sales were not permitted at the site, albeit subject to certain limitations, because sale of most of the wine wholesale would not yield an adequate profit.

8. It was only natural that at the inquiry the appellant's advisers on the one hand and the council's witness and the local objector's advocate on the other should give

me the extreme views of the likely effects of allowing on-site sales. While I could not accept the appellant's view that the effects would be negligible even in relation to the amount of traffic that would otherwise be generated by the increased activity at the vineyard (ie the aim of tripling production over the next few years); and the presence of a new dwelling with its associated domestic traffic, I equally consider it most unlikely that the Roman Road from the north end, which is only just about passable with care by vehicular traffic, would be used as a regular route by visitors to the vineyard, or that the amount of additional traffic in summer approaching through Frithsden would seriously affect the residential amenities of villagers, bearing in mind the existence of the now very popular public house in the settlement. The probable effects would seem to me to lie somewhere between these extremes.

9. Bearing in mind that your client would deliver wine purchased retail if the order was for one or more cases, I do not consider it likely that there would be a flood of persons coming to the vineyard just to buy wine. The main retail purchasers would, in my view, be those persons who came in groups by appointment, probably under the aegis of some wine or other club, for a conducted tour of the vineyard. From the evidence there might be a group of 10-15 in the morning and another in the afternoon on any day of the week during the summer months. It seems to me highly unlikely that this would occur every day, and I note from Document 8 that the total number of visitors per annum is more likely to be in the range 2,000-2,500. As groups of visitors would be likely to share cars, it seems to me that the traffic on this account would probably only be 3 or 4 vehicles per day during the summer, and I do not consider the effects of this would be unduly harmful if adequate parking was provided on the appeal site to cater not only for such visitors but casual purchasers, operational traffic, ie delivery vans and agricultural vehicles, and domestic traffic. It must of course also be borne in mind that a large proportion of such visitors might still come to the vineyard for a tour, even if they had to purchase wine in a retail shop elsewhere, which your client would otherwise have to run with added overhead expenses that the business would be unable to support.

10. I am accordingly of the view that if retail sales were restricted solely to wine produced from grapes grown on the site, and the hours of sale were limited to 1000-1900 daily as your client agreed, the harmful effects of retail sales would not be so great as to justify refusing permission for the whole project. While I accept that the making and bottling of wine on the site could not be regarded as an ancillary use to growing grapes, and thus requires planning permission, once that has been granted, it is arguable whether the sale of the wine from the premises would not then be an ancillary use if the level of sales was modest. However as your client would hope to sell some 80% of his production in this manner, I am inclined to the view that this goes beyond an ancillary use and thus also requires planning permission. I note that the council consider it would be difficult to ensure that only wine made from grapes grown on the site was made and sold, but I do not accept that as any wine bearing your client's label - as I assume it would - would have distinctive characteristics an expert should be able to discern.

11. With regard to the occupancy condition of the dwelling that was also originally in dispute, I appreciate that your client might not be able to comply with the provisions of the condition as normally worded immediately he took up occupation as he has a full-time occupation elsewhere, and would thus not be 'solely or mainly employed in agriculture'. However I note that the council did not consider this point in the suggested wording of the Section 52 Agreement, and I would see no major difficulty in giving him a period of grace so long as he is making progress towards full commercial viability and running the vineyard full time.

12. As I mentioned above I would have wished to have more concrete evidence and assurance regarding the financial viability of the enterprise, but I have no reason

to doubt the firmness of your client's intention to carry through his plan. However it is stressed in paragraph 6 of the Annex to Circular 24/73 that mere statements of intention to expand an enterprise of doubtful viability will not by themselves normally be sufficient. I appreciate that your client has already made a substantial investment in the enterprise over a lengthy period, but the financial outlay now envisaged will be considerable, and I hope your client's business acumen matches his enthusiasm. I raised this matter at the inquiry, and your client stated he would accept a planning condition stipulating that the dwelling would not be occupied until the proposed agricultural/processing/storage building, and all the associated works were complete. I consider such a condition essential as a clear indication of commitment in the absence of written proof of financial support during the next expensive phase of development.

13. The application for both buildings is for outline planning permission, and a very considerable amount of detailed work remains to be done before full approval could be given. The details are of course a matter for your client to agree with the council, but I consider the following will need careful consideration. Both the dwelling and the building should be of the lowest possible profile and sited well down the slope on the site so that they are not prominent from public vantage points in the surrounding countryside. Details of design and materials to be used, including their colour, should of course be given careful attention in an Area of Outstanding Natural Beauty adjoining a Conservation Area. The southern boundary of the site at the western end between the proposed buildings and the dwellings to the south would require some further landscaping with evergreen trees and shrubs to minimise any loss of privacy and visual amenity of the existing residential properties, and to reduce any harmful effects the new buildings might have on the character of the sloping site from the opposite hillside. The details of the improvements to the existing access must be given the most careful consideration as I would regard the present outline plan, which would involve vehicles driving along the northern boundary and then down a track in an equally exposed position to the southern side, as most undesirable. The alternative of a new access in the south-west corner seems equally unacceptable because of the marked difference in levels of the road and the site at this point. I would envisage the improved access being approximately where it is at present - perhaps slightly to the south to obtain a better visibility splay - but that the driveway would immediately turn right so that it would run down the site parallel to the lane and as close to it as possible to reduce the visual impact of its use by vehicles. I also consider a layby should be cut into the bank at the south-west corner of the site to allow vehicles entering and leaving the site, to pass without having to back right up to the access or the southern end of the road. This may well require an embankment to support the earth in view of the difference in levels, but this would not be out of character with other parts of the Roman Road further to the north where it runs through a cutting with walls on either side. Parking space on the site would have to meet the requirements I have already mentioned. Lastly consideration would need to be given to proper sound-proofing of that part of the processing building which will be used for bottling, as the machinery may be noisy, and to the erection of a wall or fence on the southern boundary of the site (ie to the north of the improved screening) to prevent the gardens of the dwellings on the southern side from being unduly affected by commercial traffic noise and general activity on the site.

14. It will be apparent from this letter that I have taken into account the objections of local residents, and I fully appreciate their desire to prevent any lowering of the very high standard of their amenities. I can thus understand the fears about the implications of granting permission. However, further growth of the vineyard beyond its present boundaries seems most unlikely, as your client stated, because growing conditions would not be suitable for the vines. The fear of other developments being approved nearby, as the original farm is split up further, has been noted, but my decision in this appeal would not in any way indicate that any other form of development whatsoever would be acceptable other than on its own

particular merits. I have examined all the other matters raised in the representations, including drainage requirements, but there is nothing of sufficient substance to outweigh those considerations that have led me to my conclusion that, on balance, permission should be granted for the proposed development subject to conditions, even though it has not been possible to conclude an agreement under Section 52 of the Town and Country Planning Act 1971 as the council would have wished.

15. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of a house with garage and an agricultural/processing/storage building at Frithsden Vineyard, Roman Road, Frithsden in accordance with the terms of the application (No 4/1499/82) dated 16 December 1982 and the plans submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the buildings, the means of access thereto, on site parking facilities and the landscaping of the site (hereinafter referred to as 'the reserved matters') shall be obtained from the local planning authority;
- b. application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this letter;
2. the development hereby permitted shall be begun on or before whichever is the later of the following dates:
  - a. 5 years from the date of this letter; or
  - b. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved;
3. the occupation of the dwelling hereby permitted shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry (including any dependents of such a person residing with him), or a widow or widower of such a person;
4. the dwelling hereby permitted shall not be occupied until the agricultural/processing/storage building also permitted has been completed, together with the access road and parking area on the site;
5. wine shall only be produced and bottled in the agricultural/processing/storage building hereby permitted from grapes grown on the appeal site and from no other grape juice;
6. there shall be no retail sales from the site whatsoever other than wine produced on the site;
7. retail sales shall only take place between the hours of 1000-1900 daily;
8. the part of the agricultural processing/storage building used for bottling wine shall be soundproofed in accordance with a scheme to be agreed with the local planning authority;
9. the southern boundary of the site shall be enclosed by a fence or wall as shall be agreed with the local planning authority.

16. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission and for approval of the reserved matters referred to in this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

17. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

18. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Gentlemen  
Your obedient Servant



J M DANIEL DFC FBIM  
Inspector

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