



The Planning Inspectorate

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

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69b High Street
HARPENDEN
Hertfordshire
AL5 2SL

Your Ref: WFC/SEH/4273

Our Ref:
T/APP/A1910/A/95/250617/P8

Date: 16 AUG 1995

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 AND SCHEDULE 6
APPEAL BY STONEFINE LIMITED
APPLICATION NUMBER: 4/1621/94

PLANNING DEPARTMENT						
DACORUM BOROUGH COUNCIL						
						Ack.
DP	BC	BC	BC	BC	BC	BC
Received						17 AUG 1995
Comments						

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse an application for planning permission under Section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted. The planning permission was No 4/1892/88 dated 13 April 1992 for change of use from barns to 9 dwellings on land at West Leith Farm, Tring, Herts.

2. The condition in dispute is No 17, which states:

17. The dwellings hereby permitted shall not be occupied until the development, including all parking and garaging arrangements, has been completed fully in accordance with the details shown on the approved plans.

The reason for the condition was stated as:

17. In order that there is adequate parking provision formed to serve the development in the interests of safeguarding the visual amenity of the Chilterns Area of Outstanding Natural Beauty, and in the interests of the overall appearance of the development and its setting and to safeguard residential amenity.

I have considered the written representations made by you and by the Council and also those made by interested persons, including those made directly to the Council and forwarded to me. I inspected the site on 2 August 1995.

3. The subject buildings comprise a range of mostly single storey brick and slate structures, probably of late Victorian vintage. There is also a first floor flat located at the northwest corner and a bungalow within the yard area, both of which are currently in residential occupation. There are also two modern pre-cast



concrete portal frame and corrugated asbestos structures within the site. Several of the buildings, including one of the modern barns, are currently used as stables or for the storage of horse feed. The site is located in the Metropolitan Green Belt and the Chilterns AONB to the south of Tring, from which it is separated by the A41 Tring By-Pass. Access to the site is by means of a narrow single track lane which also serves as the sole means of access to the farm and approximately half a dozen residential properties.

4. Planning consent was granted in April 1992 for the change of use of the barns to 9 dwellings. That consent was subject to a Section 106 Agreement requiring the removal of two portal frame buildings and that these should not be re-erected on any part of the land. The consent was subject to a total of 19 conditions which required, inter-alia, that a scheme of landscaping be submitted for approval, and that certain features of the buildings, notably the roof vents, timber facias and existing internal timbers of the buildings, should be retained. Conditions 10 and 16 sought to control the detailed access and parking arrangements having regard to the existence of a public footpath along the northwest boundary. Condition 17 sought to prevent occupation of any of the dwellings until the development had been completed fully in accordance with the details shown on the approved plans. The reason for this condition was to ensure that there was adequate parking provision and to safeguard the visual amenity of the AONB and residential amenity. The reference to residential amenity did not, however, specify whether this related to the amenity of future occupiers of the units or that of nearby residents.

5. From my inspection of the appeal site and surrounding area and consideration of the representations, I am of the opinion that the principal issue in this case is whether the condition appealed against meets the test of Circular 11/95 and, in particular, the tests relating to necessity and relevance to the development permitted.

6. Policy 1 of the Hertfordshire County Structure Plan Review defines the Green Belt boundaries and sets out the basis of development control within such areas to accord with Government policy. Similarly, Policy 2 specifies that within the Chilterns AONB the prime planning consideration will be the preservation of the beauty of the Area. Policy 47 seeks to protect and enhance the essential character of the County's urban and rural areas. Local Planning Authorities will have regard not only to the impact of the individual developments, but will also take into account the cumulative effect of proposals. My attention has also been drawn to Policy 51 which specifies that housing development in the Green Belt should meet the needs of agriculture and forestry and other appropriate uses.

7. The Dacorum District Plan was adopted in 1984 and is now replaced by the Dacorum Borough Local Plan which was formally adopted by the Council on 12 April, 1995. Policy 3 relates to development in the Green Belt and accepts the principle of the appropriate re-use of some redundant buildings, which accords with national policy. Policy 8 requires a high standard in all development proposals. Development will not be permitted unless it meets certain criteria, including the avoidance of harm to the surrounding neighbourhood and adjoining properties through visual intrusion, loss of privacy, noise, disturbance or pollution. Developments should provide sufficient parking and, where appropriate, enhance important landscape or historical or architectural features.

8. Policy 10 is of particular relevance, and states that planning conditions and obligations will be used where appropriate to control and meet the adverse effects of development, including those relating to its timing and satisfactory completion and the occupation of the completed development. The reason for this form of control is to ensure that development is properly implemented in the public interest and to ensure that the disbenefits and off-site costs of development are not imposed on the local community. A judgement about the particular need for control must be made for each development proposal.

9. My attention has also been drawn to Policy 88 entitled "Landscape Strategy" which seeks to preserve and improve the landscape within the Chilterns AONB and other protected areas. Policy 89 refers specifically to the Chilterns AONB and sets out criteria for the control of development within such Areas which, inter-alia, must not be intrusive in terms of noise, appearance and traffic generation. Policy 99 relates to redundant buildings in the countryside and sets out detailed criteria to be applied in dealing with such applications for their conversion to a variety of uses.

10. The conversion of the barns to residential use has already been accepted and consent granted subject to a total of 19 conditions. The grant of consent in 1992 took into account planning policies at that time, including those relating to the Green Belt and the Chilterns AONB. Given the size of the development, the need to carry out extensive works of refurbishment and repair to achieve the conversion of this substantial block of buildings into 9 units of residential accommodation, your Client Company wishes to undertake the development in three phases in order to finance the scheme. Some local residents are concerned that such phasing will extend the period during which there is disturbance from building works over a far longer period and that the occupiers of the earlier phases will also be disturbed. The Local Authority are concerned to preserve the amenity of the Chilterns AONB and to safeguard the area from harmful visual impact and disturbance to residential amenity that could result from a piecemeal development.

11. Conditions which require that a development shall be completed within a time limit are unacceptable. There are very limited planning controls over the period of time in which the total development must be undertaken (Sections 94 to 97 of the Town and Country Planning Act 1990), such that the proposals could be commenced and then be left in abeyance pending an improvement in market conditions. In my opinion, such a situation would be likely to lead to a further deterioration in the condition of the buildings whilst delaying the development and making any works more extensive. The buildings are an important and permanent feature in the landscape. They are obviously deteriorating in condition and you suggest it is unlikely that the works required for their renovation and conversion would be undertaken in current market conditions if Condition 17 remains in full force and effect.

12. In my judgement, the phasing as proposed has been carefully designed to provide the maximum environmental benefit of removing the two unsightly barns in the initial phase, whilst ensuring that the occupiers of the first phases are not disturbed by the final phase. Furthermore, such a scheme would ensure that at all times there is access and parking provision for the newly created dwellings of each phase. Accordingly, therefore, I see considerable merit in the proposed arrangement in terms of accelerating the works of environmental improvement within the Green Belt and the AONB to accord with the policies which I have outlined above which seek to protect the visual amenities of such areas.

13. It is also necessary, however, to consider whether the variation of the condition as suggested in the Officer's Report to Committee would be likely to have a materially adverse effect upon the amenities of nearby residents. In this respect, I have noted in particular that a number of those persons who live adjacent to the appeal site and are likely to be most affected by the works of renovation and conversion have written in support of the proposed phasing arrangements, given their concerns as to the deterioration and general appearance of the buildings. My attention has also been drawn to the fact that the existing equine uses of the buildings involve a certain level of traffic generation, including the use of lorries and horse trailers. I accept that during the works of conversion any increased use of this narrow lane by plant and machinery is likely to cause disturbance to nearby residents and cause inconvenience to other users of the lane. However, the existing Condition 17 and the powers available to Local Planning Authorities would not, in my opinion, be likely to control or assist in respect of the concerns expressed by a number of the objectors.

14. I have decided, therefore, to vary the condition to permit the approved development to be undertaken in phases. I have also considered whether I should review or vary any of the other conditions imposed upon the original consent. In my opinion, however, these are relevant and necessary to the development proposed in order to safeguard the Green Belt and the AONB and to ensure improvements to the appearance of the locality whilst safeguarding, so far as possible, the amenities of nearby residents. I have, however, amended Condition 1 to take into account the fact that the original consent was granted in 1992 and I have reduced the period within which the development should commence in order to ensure, so far as possible, that development proceeds speedily, given the condition of the structures to which you have drawn my attention. I have also amended Conditions 3, 4 and 16 to take into account changes in the General Development Order.

15. I have had regard to the other matters raised in the representations, but none is of sufficient strength to outweigh the considerations which have led to my decision.

16. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for change of use from barns to 9 dwellings at West Leith Farm, Tring, Herts in accordance with the application, No 4/1621/94 made on 12 December 1994, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 2 years from the date of this letter.
2. the existing two portal frame buildings shown on Plan No 4/1892/88 (scale 1:500) shall be removed from the application site within 28 days from the commencement of any work relating to the development hereby permitted.
3. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2 (Part 6 Class A and Part 7 Class A) or any amendment thereto, no works for the erection, extension or alteration of a building shall be carried out within the land edged blue on Plan No 4/1892/88 (scale 1:2500) without the express written permission of the Local Planning Authority.
4. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (Schedule 2 Part 1 Classes A to H inclusively and Part 2 Classes A, B and C) there shall be no development carried out, as covered by the aforementioned Classes, within the application site as edged red on Plan No 4/1892/88 without the express written permission of the Local Planning Authority.
5. all new external doors and window frames shall comprise of dark stained wood.
6. all brickwork of the development hereby permitted shall match both in colour and texture, so far as possible, that of the existing barns.
7. all roof tiles, including any necessary replacements, shall be of natural slate to match both in colour and texture, so far as possible, that of the existing barns.
8. no work shall be started on the development hereby permitted until details of the materials to be used for the surfacing/landscaping

8. cont'd

of the internal courtyards of the barn complex 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.

9. the parking of vehicles shall be restricted to only:

(a) the driveways of garages and car port areas within the internal courtyards shown on Drawing A/3166 and coloured green on Plan No 4/1892/88 (scale 1:500);

(b) the garages serving Units 7 and 8.

10. with the exception of vehicular access to the garages serving Units 7 and 8 of the development Footpath No 32A which forms the north western boundary of the site shall not be used for either vehicular access to or parking associated with any other residential unit hereby permitted.

11. no development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, and details of numbers, species and proposed planting location of all new trees, shrubs and hedgerows.

12. all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development 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 gives written consent to any variation and, for the purposes of this condition, a planting season shall be deemed to commence in any one year on 1 October and to end on 31 March in the next following year.

13. the landscaping scheme submitted in accordance with Condition 12 shall include the retention of existing boundary vegetation which shall be protected during the period of construction and such part or parts of the vegetation as become damaged shall be replaced within the planting season following the completion of the development.

14. all the existing roof vents, all existing internal timbers and the timber fascia boarding of the front entrance shall be retained unless otherwise agreed in writing by the Local Planning Authority.

15. Vehicular access to the respective parts of the site edged red on Plan No 4/1892/88 (scale 1:2500) shall be only from the three points from West Leith by arrows on Plan No 4/1892/88 (scale 1:500).

16. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any amendment thereto, no new vehicular access and associated track/driveway shall be formed between the access of the application site edged red and land edged blue on Plan No 4/1892/88 (scale 1:2500) without the express written permission of the Local Planning Authority.

17. the dwellings of each phase of the development shown on Drawing No 4273/01 shall not be occupied until each related phase, including all parking and garaging arrangements, has been completed fully in accordance with the details shown on Plan No 4/1892/88 and the phasing shown on Plan No 4/1621/94RC.
18. none of the land edged red on Plan No 4/1892/88 shall be used for the storage of agricultural machinery or for other commercial purposes, including equestrian activities.
19. the existing buildings within the main courtyard shown coloured purple on Plan No 4/1892/88 (scale 1:500) and caravan at the rear of the site shall be removed from the application site within 28 days from the completion of any of the residential units hereby permitted.

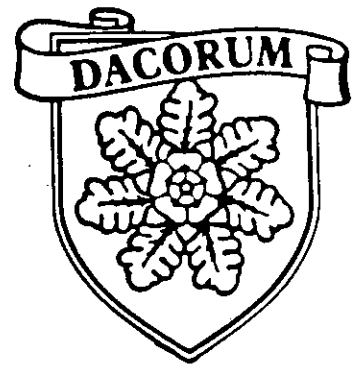
17. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused, or granted conditionally, or if the Authority fail to give notice of their decision within the prescribed period.

18. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R J Maile', with a horizontal line underneath.

R J Maile BSc FRICS
Inspector



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/1621/94

Stonefine Ltd
15 Rosebery Avenue
Harpenden
Herts

Clarke & Whalen Architects
69B High Street
Harpenden
Herts
AL5 2SL

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

West Leith Farm, West Leith, Tring

VARIATION OF CONDITION 17 OF PLANNING PERMISSION 4/1892/88 (CHANGE OF USE FROM
BARNs TO 9 DWELLINGS)

Your application for *the removal of a condition on a previous permission* dated
12.12.1994 and received on 21.12.1994 has been **REFUSED**, for the reasons set out
on the attached sheet(s).

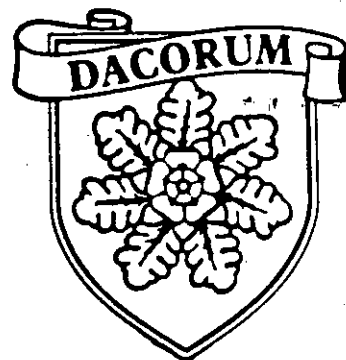
Director of Planning

Date of Decision: 16.02.1995

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/1621/94

Date of Decision: 16.02.1995



The local planning authority is of the opinion that the original condition was appropriately imposed for the reason then given. There have been no changes in circumstances since the grant of planning permission which would now justify reaching a different conclusion.