



The Planning Inspectorate

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Hertfordshire
HP1 1HH

Your Ref: 4/01887/00/FUL
Our Ref: APP/A1910/A/02/1092088
Date: 4 March 2003

Dear Sir

TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY MRS HARRIES
SITE AT 32-34 TRING ROAD, LONG MARSTON, TRING, HERTS

I enclose a copy of our Inspector's decision on the above appeal.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
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Yours faithfully

Mr Dave Shorland

COVERDL1

HoP	EMF	CP	DC	EC	PR	DN	CON
Rec'd. 05 MAR 2003						File	
Comments:							
PLANNING DIVISION							



Appeal Decision

Hearing held on 22 January 2003

Site visit made on 22 January 2003

by John Papworth

an Inspector appointed by the First Secretary of State

HCP	ENF	DP	DC	CC	PR	DN	CON
05 MAR 2003						File	
Comments:							
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Date

- 4 MAR 2003

Appeal Ref: APP/A1910/A/02/1092088

32-34 Tring Road, Long Marston, Tring, Herts.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Harries against the decision of Dacorum Borough Council.
- The application (Ref.4/01887/00/FUL), dated 19 October 2000, was refused by the Council by notice dated 10 January 2002.
- The development proposed is refurbishment of existing buildings and provision of two further, two storey houses.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Main Issue

1. I consider the main issue in this appeal to be the effect of the proposal on the aims of Development Plan and other policies designed to ensure a supply of employment land and premises.

Planning Policy

2. The Development Plan consists of the Hertfordshire Structure Plan Review 1991-2011 and the Dacorum Borough Local Plan adopted in April 1995. Structure Plan Policies 1 and 2 seek sustainable development that encourage economic growth consistent with environmental constraints. Policy 6 lists settlements where development will be concentrated, and Policy 9 sets out the distribution of dwellings. Car parking provision is detailed in Policy 25 and traffic and road safety implications are the subject of Policy 29. Listed buildings are to be protected under Policy 38 among other things.
3. Local Plan Policy 5 details the uses considered acceptable in the rural areas, being agriculture, forestry, mineral extraction, countryside recreation and social, community, leisure and utility services. Policy 100 is referred to which provides for the re-use of redundant buildings in the countryside, subject to criteria; non-residential use being preferred. Policy 6 allows small-scale development in Long Marston for housing, employment and other purposes. Criteria regarding the quality of development are set out in Policy 8 and amplified by way of Policy 9. Policy 10 concerns the use of conditions and obligations to control and meet adverse effects of development. Established employment sites outside designated areas will not be disturbed unless they cause environmental problems under Policy 30. Policy 49 seeks to assess proposals with regard to highway and traffic issues, and Policy 51 states that new development will be expected to meet current standards of highway design, servicing and circulation space, with private parking being covered in Policy 54, and disabled persons' access in Policy 59. Tree planting is encouraged

by Policy 95 and listed buildings and conservation areas are protected under Policies 109 and 110.

4. The First Review Deposit Local Plan contains emerging policy, which would carry forward the thrust of existing adopted policies. In particular, Policy 34 would replace Policy 30 of the Local Plan. The Local Plan Inspector's report has been received and is due to go before the Council later in the year. The recommended revisions to draft Policy 34 would result in the wording being more positive than in the present policy, with employment generating uses that cause environmental problems being encouraged to be relocated. Where no such problems occur, small-scale employment development or redevelopment would be permitted subject to criteria. In view of the stage reached, I shall attach moderate weight to this emerging plan.
5. I shall also have regard to Planning Policy Guidance Notes including in particular, PPG3 "Housing" (2000), PPG4 "Industrial and Commercial Development and Small Firms" (1992), PPG7 "The Countryside-Environmental Quality and Economic and Social Development" (1997) and PPG15 "Planning and the Historic Environment" (1994)

Reasons

6. The appeal site is located on the main road through the village and within a residential frontage, although there is a public house to the north west. The site is bounded to the north east by open land. Within the site there are two main ranges of buildings, with the commercial workshops being in a listed barn in the northern corner, and the offices within part of a row of cottages running towards the road. Of these, all but the part nearest the road are listed Grade II. These cottages and their outbuildings are, for the most part, in a poor condition, and are on the Council's 'Building at Risk Register'. The land surrounding the buildings is either used as open storage for the commercial use, or is overgrown former gardens. In addition to containing listed buildings, the site also falls within the Long Marston Conservation Area. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to have special regard to the desirability of preserving the listed buildings or their setting or any special architectural or historic features they possess, and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. Considering first the listed buildings, the appeal proposals are for their conversion to dwellings, with some demolition and rebuilding, and for the erection of two new dwellings on the remaining land. Listed Building Consent was granted for the works on 12 July 2002, (Ref; 4/01888/00/LBC). In my consideration of this planning appeal, I concur with the view evident in that grant of consent that the proposed development involving the listed buildings, would preserve them. The other part of the proposal, the new build dwellings, would be distant from the listed buildings, and would be of a style and siting that would not interfere visually with the older structures on the site, being more associated with other housing development to the south east and opposite. I consider that the new build proposal would preserve the listed buildings and their setting.
8. The present situation is that the listed buildings have not been preserved, rather, they are deteriorating. Although the reasons for this are, it appears to me, vague, I consider that the present use of the land and buildings is not conducive to their preservation, due in part to the low rate of financial return on the use. I have also been presented with information indicating that the site would generate insufficient funding for the preservation of the listed

buildings with development of only part for housing and part remaining commercial. Whilst such mixed use is not before me as a proposal, I acknowledge that the proximity of the buildings to one another and the layout of vehicular access would reduce the value of the development and hence the funds available to any preservation project.

9. Turning to the conservation area, whilst the main part of the Council's case concerns the loss of the commercial use, the Council did express the view, at the Hearing, that the change in use of the land would have a harmful effect on the character and appearance of the conservation area. The view was that a tidying of the site would occur which would lose its historic commercial character. Whilst I acknowledge that there is a long history of commercial use of parts of the site, the needs of a modern engineering business have, in my view, resulted in the operational parts of the land appearing unattractive within the conservation area. Added to this is the unused, un-maintained buildings and the derelict land, all of which I find detract from the character and appearance of the area. I consider that the proposed development and the works to the listed building would enhance the character and appearance of the Long Marston Conservation Area.
10. On the policy matter of employment, the supporting text to Local Plan Policy 30 states that collectively, non-conforming established business, industry, storage and distribution uses make a significant contribution both to the number of jobs and to the variety of premises available for firms, it is therefore reasonable that they should remain, unless they cause a particular problem. PPG7 has a section on rural businesses, paragraphs 3.8 to 3.11, which states the benefits of a countryside location for commercial and light industrial uses. Local Plan Policy 30 and emerging policy 34 accord with this advice.
11. The present use of part of the site is for the manufacture of electrical generators. I noted machine tools such as metal saws and drills and heavy lifting gear within the barn building, and I understand that there are three employees. The Council confirms that the site is considered to be in Class B2 use. Whilst Class B1 is described as being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, the Use Classes Order 1987 does not extend this description to Class B2. However, it appears to be the case that no complaints have been made against the present company, and no official action has been considered necessary in terms of nuisance or the like. Furthermore, it was pointed out to me at the site inspection that a dwelling has been recently erected on the adjoining site close to the barn. Whilst the B2 use may be one that would not normally be directed to a site close to housing, the particular circumstances of this company appears to have led to none of the problems envisaged in the Local Plan policy. The appellant has entered into an agreement with the present operator of the site which provides for their relocation within a set period after grant of planning permission and I understand that premises are available nearby. On that basis, I consider that the removal of the commercial use would have a limited effect on the provision of employment in the area.
12. I consider that it remains for me to carry out the balancing exercise with the loss of employment generating land within the village on the one hand and the preservation of the listed buildings and the enhancement of the conservation area on the other. It is my view that the two aims are not achievable together for the reasons set out above. Having in mind the low numbers employed, the effect that the existing use has on the character and appearance of the land, and hence the area, and the benefits available to the listed buildings and the wider area, I conclude that the balance lies in favour of the proposed development.

Hence the proposal would satisfy the statutory tests in the Planning (Listed Buildings and Conservation Areas) Act 1990 and Development Plan Policies previously identified, in particular the aims of the relevant sections of Structure Plan Policies 1, 2 and 38 and Local Plan Policies 6, 8, 9, 109 and 110, including the provisions for alternative development in Policy 30 and emerging Policy 34.

Conditions

13. The existence of the listed buildings and the location in the conservation area, close to other dwellings requires, in my view, the imposition of conditions, as suggested by the Council to control such matters as materials, joinery items, parking, landscaping, including hard surfaced areas, and fencing. These conditions should be consistent with those attached to the extant listed building consent. There would be a need for conditions covering the access roadway and the stopping-up of the existing access. I heard submissions on the need for a drainage condition, and whilst this may be covered by other legislation, I noted many sandbags in the village following recent flooding. I consider that such a condition is relevant to planning and is appropriate in this case. The Council suggested the removal of a number of permitted development rights. This is, in my view, a sensitive site and notwithstanding the degree of control already afforded by the listed status, I consider that the Council should be able to control these matters.
14. There is an air raid shelter to be demolished. This is not listed and is, by reason of its purpose, a utilitarian structure. However, I understand that it is of historical interest to the village and consider that a condition securing a photographic record would be appropriate.
15. The conversion of the listed buildings to secure their preservation would, in my judgement, be essential, and I have attached considerable weight to that in my reasoning. A condition would be required to ensure that this work is carried out along with the other parts of the proposal.

Conclusions

16. The present industrial use has not caused problems or complaints as a result of its operation within a residential area, but it has also not brought about the preservation of the listed buildings, which as a result are decaying. In addition, the use of the site and the dereliction does not preserve the character and appearance of the conservation area. On balance, the relocation of the industrial use would not cause significant harm to employment opportunities and residential redevelopment would provide for the preservation of the listed building which would enhance the character and appearance of the conservation area. The development would therefore accord with the aims of Development Plan Policies and planning guidance previously identified and with the tests in Sections 66(1) and 72(1) of the 1990 Act.
17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

18. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for refurbishment of existing buildings and provision of two further, two storey houses at 32-34 Tring Road, Long Marston, Tring, Herts, in accordance with the terms of

the application Ref.4/01887/00/FUL, dated 19 October 2000, and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision. *Info*
- 2) No development shall take place until details, methodology and samples of the materials to be used in the construction of the development hereby permitted, including external hard surfacing and boundary walls, have been submitted to and approved in writing by the local planning authority. Existing facing bricks and roofing slates shall be re-used as far as possible, all materials for repair and restoration shall be carried out using traditional materials, to include, as appropriate, lime mortar and timber lintels. Any necessary variation shall first be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. *?*
- 3) No development shall take place until details of the design, materials and appearance of all new windows and doors at a scale of 1:20, and joinery details of sections at a scale of 1:5 or half full size, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. *✓*
- 4) No development shall take place until elevational details of the proposed boundary wall alterations and new build works at a scale of 1:20 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. *✓*
- 5) Before development is first occupied or brought into use, the parking scheme (including car ports and garages) shown on drawing 5912/9D shall be completed and thereafter retained for this purpose. No storage of any items or erection of bollards, barriers or similar device which prevents their use for the authorised purposes shall take place thereon. *Info*
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include all new hard surfacing materials, including the car parking and turning areas, planting plans and written specification, including cultivation and other operations associated with plant and grass establishment, schedules of plants and trees, noting species, plant sizes and proposed numbers/densities where appropriate and implementation programme. *?*
- 7) The approved landscaping scheme shall be carried out by the end of the first planting and seeding season, being the period from October to March, immediately following the completion or first use of any separate part of the development. The trees, shrubs and grass shall subsequently be maintained for a period of five years from the date of planting and any trees or plants which die, are destroyed, removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, and be maintained until satisfactorily established. *Info*
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or

modifying that Order), no additional windows shall be inserted into the development unless otherwise approved in writing by the local planning authority.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no development falling within the following Classes of the Order shall be carried out unless otherwise approved in writing by the local planning authority; Schedule 2, Part 1, Classes A, B, C, D, E, F, G and H, and Part 2, Classes A, B and C.
- 10) Prior to its demolition, the air raid shelter shall be photographically recorded and copies of such recording submitted to the local planning authority.
- 11) The scheme of fencing and enclosure shall be implemented in accordance with the details shown on drawing 5912/9D unless otherwise approved by the local planning authority.
- 12) The development shall not be brought into use until the proposed access/crossover has been constructed and the existing access has been closed, and the footpath has been reinstated to the specification of the Hertfordshire County Council current at the time of that work being carried out.
- 13) A 1.7m by 1.7m visibility splay shall be provided and permanently maintained either side of the access to the development and to the adjacent access at the north western side of the development, measured from the edge of the access way to the back edge of the footway within which there shall be no obstruction to visibility between 1.05m and 2m above carriageway level.
- 14) The development shall not be brought into use until a turning space for cars and commercial vehicles has been provided within the curtilage of the site, the details and programme of implementation of which shall have been submitted to and approved by the local planning authority.
- 15) The development shall not be brought into use until the access road has been constructed in bound material, ie not loose pea shingle, for a distance of 10m from the highway boundary and a linear drain has been provided across the access road where it abuts the highway and which drains to a private outfall.
- 16) The development shall not be brought into use until a row of granite setts shall have been provided across the access road where it abuts the highway.
- 17) The access width shall be 4.1m and kerb radii shall be 4m, which shall include a pram crossing.
- 18) Before development begins, details of the proposed method of foul and surface water drainage for the site shall be submitted to and approved in writing by the local planning authority. The drainage works as approved shall be constructed in accordance with the approved details before development is first occupied or brought into use.
- 19) None of the dwellings hereby approved shall be occupied until;
- i) The works to the listed buildings have been carried out in accordance with the Listed Building Consent (Ref: 4/01888/00/LBC) dated 12 July 2002, or as

subsequently approved by the local planning authority in pursuance of conditions attached to that consent, and;

- ii) The development to refurbish and upgrade the listed buildings for residential occupation has been carried out in accordance with the plans hereby approved, or as subsequently approved by the local planning authority in pursuance of conditions attached to this permission, and;
- iii) Written agreement has been obtained from the local planning authority that the requirements sections i) and ii) of this condition have been complied with.

Information

- 19. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
- 20. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
- 21. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.
- 22. Attention is drawn to the provisions of sections 7 and 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained for works for the demolition, alteration, or extension of a listed building which would affect its character as a building of special architectural or historic interest.
- 23. Attention is drawn to the requirements of Section 76 of the Town and Country Planning Act 1990 concerning provision for the benefit of disabled people



INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

R Roberts

Borough Councillor
Heath End, The Common, Chipperfield, WD4 9BC

A Parrish MA(Env Planning) MRTPI

Senior Planning Officer
Dacorum Borough Council, Civic Centre, Hemel
Hempstead, Herts, HP1 1HH

D Townsend

Borough Councillor for Long Marston
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INTERESTED PERSONS:

N Wallis

T W Generators Ltd
Tring Road, Long Marston, Herts, HP23 4QL

DOCUMENTS

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|----------|---|--|
| Document | 1 | List of persons present at the Hearing |
| Document | 2 | Notification letter dated 9 August 2002 and list of those notified |
| Document | 3 | Two letters in response from T W Generators Ltd and Tring Rural Parish Council |
| Document | 4 | Appendix A attached to appellant's statement |
| Document | 5 | Appendices LPA/1 to LPA/8 attached to Council's statement |
| Document | 6 | Listed Building Consent 4/01888/00/LBC submitted by Council |
| Document | 7 | Local Plan Inspector's recommendations submitted by Council |
| Document | 8 | C Pallet list January 2003 submitted by appellant |

PLANS

- | | | |
|------|---|--|
| Plan | A | Application Drawings 5912/1B, 2, 3D, 4B, 5, 6C, 7C, 8C, 9D |
| Plan | B | Appeal drawing 5912/10 |

The Planning Inspectorate

CHRONICALLY SICK AND DISABLED PERSONS ACT 1970

CHRONICALLY SICK AND DISABLED PERSONS (AMENDMENT) ACT 1976

THE BUILDING REGULATIONS 2000 (SI 2000 No 2531) - Amended by: THE BUILDING (AMENDMENT) REGULATIONS 2001 (SI 2001 No 3335)

1. The Chronically Sick and Disabled Persons Act 1970 was amended by the Chronically Sick and Disabled Persons (Amendment) Act 1976. The amended Act requires persons undertaking the provision of any building or premises to which the public is to be admitted to make provision for the needs of disabled people. The provisions of the 1970 Act apply to existing and to new buildings: the 1976 amendment included newly provided places of employment. The terms "building" and "premises" are not defined in the amended Act but would be construed by a court according to their ordinary meaning. Section 4 of the Act relates to the provision of means of access, parking facilities and sanitary conveniences. Section 7 relates to the provision of appropriate notices and signs. Section 8 relates to access to, and facilities at, educational buildings and section 8A relates to the provision of means of access, parking facilities and sanitary conveniences for newly provided office, shops and railway premises and factories. The Building Regulations were made under the Building Act 1984. They regulate the control of building work. "Building work" has the meaning given in regulation 3(1) of the *2000 Regulations, as amended by the 2001 Amendment Regulations*, and includes the erection, extension or material alteration of a building or controlled service.

2. Approved Document M - Access and Facilities for Disabled People: 1999 edition, is of relevance. Approved Documents are not part of the *2000 Regulations* but have a special status which is explained in sections 6 and 7 of the Building Act 1984.

3. For the purposes of Part M of the Building Regulations, "disabled people" means people who have:

- a. an impairment which limits their ability to walk which requires them to use a wheelchair for mobility, or
- b. impaired sight or hearing.

4. Regulation 4(1) of *SI 2000 No 2531* provides that building work shall be carried out so that it complies with the relevant requirements contained in Schedule 1 and in complying with any such requirement that there is no failure to comply with any other such requirement. Part M of Schedule 1 relates to requirements for access and facilities for disabled people.

The requirements of Part M do not apply to:

- a. an extension which does not include a ground storey;
- b. a material alteration;

- c. any part of the building which is used solely to enable the building or any service or fitting in the building to be inspected, maintained or repaired.

Note: Since October 1999 Part M of the building regulations now applies to dwellings in addition to those building previously covered.

5. Regulation 4(2) of *SI 2000 No 2531* provides that in respect of building work to which the provision applies there must be compliance with the relevant requirements of Schedule 1 or, when there is not compliance with any such requirement, the building or any controlled service or fitting is no more unsatisfactory in relation to that requirement than before the work was carried out.

6. There is a definition of building in paragraph 0.10 of the Approved Document M. This definition is more specific than the definition of "building" in Regulation 2(1) of the 1991 Regulations. The definition "building" in Approved Document M reads as follows:

"Building, in this Approved Document, means a building or a part of a building which may comprise individual premises: a shop, an office, a factory, a warehouse, a school or other educational establishment, including student residential accommodation, an institution, or any premises to which the public is admitted whether on immediate payment, fee, subscription, or otherwise."

7. *[In addition to the above mentioned matters, your attention is drawn to BS5810:1979 "Code of practice for access for the disabled to buildings" and to Design Note 18 "Access for Disabled People to Educational Buildings" published in 1984 by the Secretary of State for Education and Science and the Secretary of State for Wales.]*

For paragraph 7, please substitute:

7. *In addition to the above mentioned matters, your attention is drawn to BS 8300:2001: Design of buildings and their approaches to meet the needs of disabled people: Code of practice. (Design Note 18: "Access for Disabled People to Educational Buildings", published in 1984 by the Secretary of State for Education and Science and the Secretary of State for Wales, is no longer current).*