



The Planning Inspectorate

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DACORUM BOROUGH COUNCIL			
	J.P.		

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received	01 FEB 1999
Comments	

Your Ref: JPC/CC
Our Ref: T/APP/A1910/A/98/300864/P5

Date:

28 JAN 1999

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6 APPEAL BY M O'BRIEN APPLICATION NO: 4/01937/97/RET

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of the Dacorum Borough Council to refuse planning permission for the general storage and ancillary maintenance of engineering plant and equipment on land at Windmill Farm, Windmill Lane, Markyate. I have considered all the written representations together with all other material submitted to me. I inspected the site on 25 January 1999.
2. Your client has been using the appeal premises for the storage and maintenance of engineering plant and equipment for several years and has now sought retrospective planning permission. Consequently, I am dealing with this application under the powers available to me under S73A of the Town and Country Planning Act 1990 (as amended) for continued use. The application also referred to temporary permission for 12 months to enable the Council to monitor the use, and I have taken this into account.
3. It is a requirement of the 1990 Act (as amended) that, where an adopted or approved development plan contains relevant policies, an application for planning permission or an appeal shall be determined in accordance with the plan, unless material considerations indicate otherwise. In this case the development plan comprises the Hertfordshire County Structure Plan Review 1991-2011, adopted in April 1998, and the Dacorum Borough Local Plan, adopted in April 1997. The latter is under review, and the deposit draft of the emerging Dacorum Borough Local Plan 1991-2011 was published in November 1998.
4. The appeal site lies in an area of countryside which the new Structure Plan has identified for inclusion in an extension to the Metropolitan Green Belt. However, Policy 5 says that the precise boundaries of the Green Belt shall be as defined in district local plans and, although draft Policy 3 of the emerging Local Plan refers to this extension to the Green Belt, it is not included in the adopted Local Plan. Although there seems little doubt that the site will be included within the Green Belt boundaries to be defined by the emerging Local Plan, it is not certain. Under the circumstances, whilst mindful of the proposed extension of the Green Belt, I have considered the appeal primarily on the basis of countryside policies.



5. Several Local Plan policies are relevant, particularly Policy 100, which deals with the re-use of buildings in the countryside, Policy 8, which defines general development criteria, and Policy 49, which covers traffic implications. Structure Plan Policy 29 also deals with traffic and road safety implications. Planning Policy Guidance Note PPG2, "Green Belts", advises that the general policies controlling development in the countryside apply with equal force in Green Belts.

6. From my inspection of the appeal site and its surroundings and from the representations made, I consider the main issues in this case to be the effects of the proposed development on the local road network and on the character and appearance of the area.

7. The appeal site of some 0.4 hectare lies on the corner of Hicks Road and Windmill Road in open countryside to the north east of Markyate. It is screened from the road by an earth bank, originally constructed to provide sound-proofing in connection with the shooting grounds to the east. The site contains a large storage building constructed in concrete blockwork and asbestos corrugated sheeting and a portacabin. The storage building was formerly a barn and has been enclosed in recent years following planning permission in 1993 (Ref. 4/1641/92).

8. The main route to the appeal premises is along Hicks Road over a distance of approximately 500 metres from the A5 Markyate bypass. It is a narrow, single track road with hills and bends and, in some places, steep banks at the sides of the road. It has no footways. Although there are several surfaced passing places, there is also considerable evidence of vehicles running on to the verges at many points to enable other vehicles to pass. In the other direction from the site entrance, Windmill Road extends into the rural area and is similar in character to Hicks Road. Neither of the roads is suitable for heavy or large vehicles or for frequent traffic.

9. Your client's business involves the hire of construction plant and equipment, the largest items being JCBs. It generates traffic along Hicks Road in the form of plant and equipment being transported on lorries, towed or travelling under its own power, transit vans for maintenance of the plant, and employees travelling to and from work in cars. In character, the traffic generated is not unlike local farm machinery and equestrian lorries. However, although plant and equipment is not transported each day and is often kept on construction sites during the period of its hire, in my judgement, the volume and nature of the traffic is likely to have considerably more impact on the local roads than would traffic from traditional agricultural use of the appeal premises. It is also likely that, if your client's business continues to be successful, expansion may occur leading to more intensive traffic along these inadequate roads.

10. My conclusion is that continued use of the appeal premises for the storage and associated maintenance of engineering plant and equipment would be unacceptably harmful to the local roads, causing nuisance and disturbance to local residents and other road users and detriment to road safety. It would be contrary to development plan policies, particularly: Structure Plan Policy 29, which resists development where the road is poor in terms of width, alignment or structural condition, which would lead to an increased risk of accidents or would increase traffic to adversely affect the rural character of the road; Local Plan Policy 49, which has special regard to the effect of traffic on the safety and environmental character of country lanes; and Local Plan Policy 8, which requires all development to avoid serious detriment to amenity, safety or traffic flow.

11. You have argued that traffic associated with your client's business would be considerably less than the large number of lorry movements along Hicks Road associated with construction of the sound-proofing banks following their grant of planning permission on appeal in September 1990 (Ref. T/APP/A1910/A/89/145402/P5). The Inspector at that time considered the effects which the construction traffic might have on the lane and concluded that, bearing in mind the temporary nature of the works, they would be outweighed by the benefits of the scheme. In my view, it is a significant factor that the construction traffic was of a temporary nature, whilst traffic associated with the current appeal could take place for many years. Comparison of the 2 cases does not provide a useful lead.

12. Turning now to the second main issue, the effect on the character and appearance of the area, Local Plan Policy 100 specifies criteria for the reuse of redundant buildings in the countryside and these include that the building should be of a substantial nature and worthy of retention. The term "worthy of retention" is defined: for buildings in the Green Belt as "Listed Buildings of special architectural or historic interest and buildings of particular quality which are considered to make a positive contribution to the landscape and rural character of the surrounding area"; and for buildings in other rural areas as "those which are not detrimental to the landscape and amenities and character of the surrounding area".

13. The Council has argued that the building should be judged on the basis of inclusion in the Green Belt, and I have attributed considerable weight to this. However, it is noteworthy that the proposed replacement policy in the emerging Local Plan (draft Policy 106) makes no reference to the principle of "worthy of retention" and does not differentiate between Green Belt and other rural land in this respect. It is also relevant that the Council granted planning permission for enclosure of the barn as recently as 1993. The storage building is well screened from the road, of sound construction and typical of many agricultural style buildings in the surrounding countryside. In my view, it does not look out of place. Taking all of these factors into account, my conclusion is that the storage building is not harmful to the character and appearance of its surroundings.

14. In addition to the 2 main issues, you have submitted several matters material to my considerations. Firstly, you have explained that when your client first occupied the appeal premises he understood that the previous owners, Broomhill Shooting Ground, had been using them for the storage of plant and equipment in connection with their own business rather than for agricultural purposes. Consequently, your client may have misunderstood the use permitted for the premises. However, the 1993 planning permission for alteration of the agricultural barn included a condition that the building only be used for agricultural purposes, and you reported that your client undertook completion of the building work for those alterations. Therefore I accord little weight to any possible misunderstanding of the use attributed to the previous owners.

15. Secondly, the application sought temporary permission for a period of 12 months to permit the Council to monitor the business activities and your client to demonstrate the low level of activity and the good working relationship with neighbouring residents. Government Circular 11/95, "The Use of Conditions in Planning Permissions", advises that it might be appropriate to grant a temporary permission in order to give a trial run if there is insufficient evidence to be sure of the character and effect of the development. However, in this case, the business has been in operation for almost 5 years, and there has been further ample opportunity to produce suitable evidence over the 9 months since the planning application was refused. In my view, a temporary permission would serve no useful purpose.

16. Finally, you have asked for consideration to be given to granting a conditional permission personal to your client. Circular 11/95 advises that such a permission is seldom desirable as planning permissions generally run with the land. However, on occasions such permissions are granted exceptionally on strong compassionate or other personal grounds. No such grounds have been put forward in this case, and I judge that a personal permission is not appropriate.

17. Overall, although I have concluded that the effect of continued use of the appeal premises on the character and appearance of the area would be negligible, the harm caused to the local roads in regard to nuisance, disturbance and safety would be unacceptable and contrary to the relevant development plan policies.

18. I have taken into account all other matters raised but they do not outweigh the considerations which have led me to my conclusion.

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

Yours faithfully



C M NIELD BSc, CEng, MICE, MCIWEM
Inspector



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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01937/97/RET

WINDMILL FARM, WINDMILL ROAD, MARKYATE, ST. ALBANS, HERTS
RETENTION OF GENERAL COMMERCIAL STORAGE AND ANCILLARY
MAINTENANCE OF ENGINEERING PLANT AND MACHINERY

Your application for retention of development already carried out dated 09 December 1997 and received on 15 December 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 16 April 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01937/97/RET

Date of Decision: 16 April 1998

. The local road network which provides access to this site comprises narrow rural lanes that are quite unsuitable in construction, width and alignment for the type and size of vehicle attracted by the development. As a result, the retention of the use of the building is inappropriate and conflicts with Policy 100 of the Dacorum Borough Local Plan.