

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



**DACORUM BOROUGH COUNCIL**

To Mr K Duglan Broomhill Leys Wood Windmill Road Markyate Herts	Berwick Interior Contracts 33 Seamons Close Dunstable Beds LU6 3EQ
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.Earth screening bund to reduce sound..... ..... at... Field adjoining Broomhills Shooting Ground, Windmill Road, Markyate	Brief description and location of proposed development.
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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 26 November 1988..... and received with sufficient particulars on 13 December 1988..... 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 proposed earth bund, due to its height, mass, bulk and position, would represent an unacceptable intrusion into open countryside and would have a seriously detrimental effect on the visual amenity of the rural area.
2. The roads in the vicinity of the application site are narrow, winding in character and without footpaths, and in the opinion of the local planning authority, are inadequate to carry the construction traffic likely to be generated by the proposed development. The proposal would therefore in addition to prejudicing the free flow and safety of traffic on existing roads affect adversely the rural character of the area.

Dated Twenty-ninth day of June 19 89

Signed..... *Wm Barnard*

NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). 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.
  
2. 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 Borough 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.
  
3. 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 s.169 of the Town and Country Planning Act 1971.

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0195/91

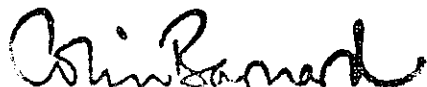
Glen Kemp Hankinson  
Landscape Studio  
Lower Basildon, Reading  
Berks  
RG8 9NE

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Fld.Adj.Broomhills Sht.Grd, Windmill Road, Markyate

SUBMISSION OF LANDSCAPING DETAILS PURSUANT TO P/P 4/2254/88(EARTH SCREENING BUND TO REDUCE SOUND)

Your application for *the approval of details or reserved matters* dated 05.02.1991 and received on 11.02.1991 has been **GRANTED**, subject to any conditions set out on the attached sheet(s).



Director of Planning.

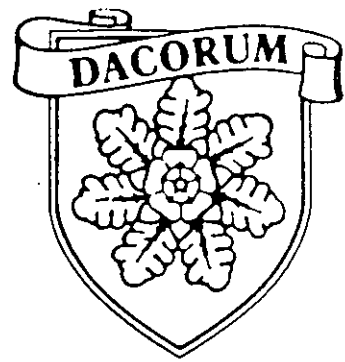
Date of Decision: 19.03.1991

(encs. - Conditions and Notes).

CONDITIONS APPLICABLE  
TO APPLICATION: 4/0195/91

Date of Decision: 19.03.1991

No conditions.



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0212/92

K Duglan  
Broomhills Shooting Ground  
Windmill Road  
Markyate  
HERTS

Coxell & Associates  
68 Vicarage Lane  
Kings Langley  
Herts

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Field Adj Broomhill Shooting Ground, Windmill Road, Markyate.

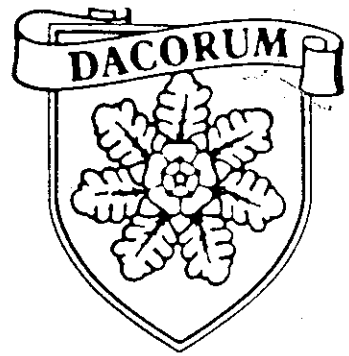
ERECT EARTH SCREENING BUND TO REDUCE SOUND WITHOUT COMPLIANCE WITH COND.5 P/P  
4/2254/88

Your application for *the retention of development already carried out* dated 25.02.1992 and received on 26.02.1992 has been **GRANTED**, subject to any conditions set out on the attached sheet.

Director of Planning.

Date of Decision: 16.04.1992

(encs. - Conditions and Notes).



CONDITIONS APPLICABLE  
TO APPLICATION: 4/0212/92

Date of Decision: 16.04.1992

1. Condition 5 of planning permission 4/2254/88 granted by the Secretary of State for the Environment on 20 September 1990 shall be varied to read as follows:  

"All earthworks which are the subject of this permission shall be completed in accordance with the following timetable:

  - (a) all fill material shall be delivered to the site by 31 October 1992;
  - (b) all top soil required to complete the bund in accordance with the details shown on Glen Kemp Hankinson Dwg No 250.2.02 shall be in place on the site and spread on the bund by 31 January 1993.
2. All details of landscaping shown on Glen Kemp Hankinson Dwg No 250.2.02 shall be carried out by 31 March 1993.

**REASONS:**

1. To ensure that the works are completed within a defined period.
2. In the interests of visual amenity.



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0318/91

Demolition Ltd  
Sunderland Estate  
Church Lane  
Kings Langley  
HERTS

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Broomhills Gun Club, Windmill Lane, Markyate,

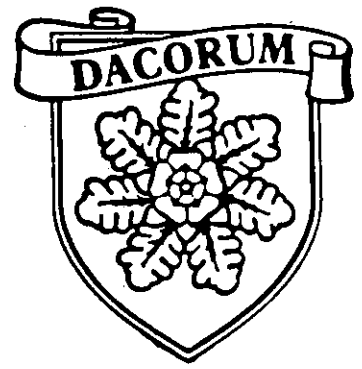
SUBMISSION DETAILS OF WHEEL CLEANING PURSUANT TO P/P 4/2254/88 (EARTH BUND FOR NOISE ATTENUATION)

Your application for *the approval of details or reserved matters* dated 14.02.1991 and received on 08.03.1991 has been **GRANTED**, subject to any conditions set out on the attached sheet(s).

Director of Planning.

Date of Decision: 13.05.1991

(encs. - Conditions and Notes).



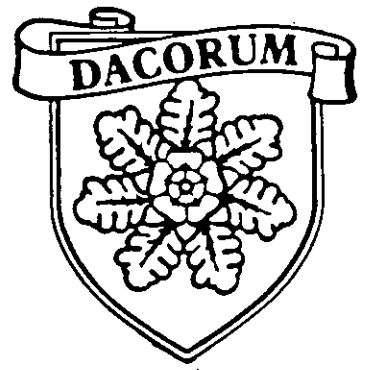
CONDITIONS APPLICABLE  
TO APPLICATION: 4/0318/91

Date of Decision: 13.05.1991

No conditions required.

**NORTHGATE  
DOCUMENT STAMPED  
TO ENSURE DETECTION  
BY SCANNER**





TOWN AND COUNTRY PLANNING ACT 1990  
DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0224/91

Wormald, Burrows Partnership  
12a & 14a Hitchin Street  
Biggleswade  
SG18 8AX

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Fld Adj. Broomhills Sht. Grd., Windmill Road, Markyate,

SUBMISSION OF DETAILS OF PASSING BAYS PURSUANT TO 4/2254 /88 (SOUND REDUCING  
EARTH MOUND)

Your application for *the approval of details or reserved matters* dated 13.02.1991  
and received on 14.02.1991 has been **GRANTED**, subject to any conditions set out  
on the attached sheet(s).

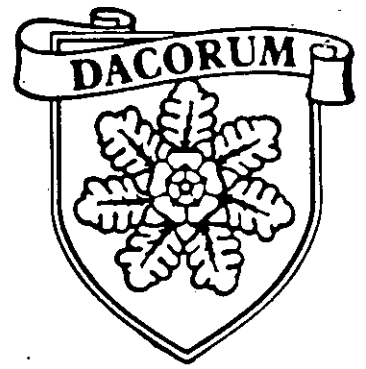
Director of Planning.

Date of Decision: 23.05.1991

(encs. - Conditions and Notes).

CONDITIONS APPLICABLE  
TO APPLICATION: 4/0224/91

Date of Decision: 23.05.1991



The kerbs along the splays and backs of the passing bays hereby approved shall be removed on completion of the works and replaced with Class E concrete and 150mm top soil to the reasonable satisfaction of the local planning authority.

**REASON:**

To ensure that the rural character of the area may be retained.



# Planning Inspectorate

Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218927

Switchboard 0272-218811

GIN 1374

1) ~~1003~~  
2) 43.

PLANNING DEPARTMENT		DACORUM BOROUGH COUNCIL	
Park Woodfine & Co 1, Lurke Street BEDFORD MK 40 3TN		Your reference: GP/89/1455	
Ref.		Ack.	
C.P.O.	T.C.P.M.	D.P.	D.C.
Admin.		Date:	
I/APP/A1910/A/89/145402/P5		20 SEP 90	
Received		21 SEP 1990	
Gentlemen		Comments	
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6 APPEAL BY K DUGLAN, ESQ. APPLICATION NO 4/2254/88			

- I have been appointed by the Secretary of State for the Environment to determine your clients' appeal against the decision of the Dacorum Borough Council to refuse planning permission for the erection of an earth screening bund to reduce sound in a field adjacent to the Broomhill Shooting Ground, Windmill Road, Markyate. I held a local inquiry into the appeal on 11 September 1990.
- The Broomhill Shooting Ground exists under planning permission granted in 1983. Exercise of the permission gave rise to complaints which led to action in the courts. As a result your client is under an obligation to take all action necessary to abate nuisance. A range of measures have been implemented, and he is advised that the last measure open for the abatement of noise is to construct a bund between the shooting ground and dwellings which lie to the south west of the range. A number of different designs have been investigated by the appellant in consultation with the Council, and the most preferable is the subject of the application.
- At the inquiry modifications were made, by agreement, to the appeal proposal. The essence of these was that the outer slope of the bund, facing Windmill Road, was reduced from 20° to 26°, and the planting indicated in the space between the bund and the existing hedgerow was increased in density. It was agreed that all of these changes could be satisfactorily covered by a condition relating to the approval of a landscaping scheme in the event of the appeal being allowed.
- From all that I have seen and heard, the main issues on which my decision in this appeal turns are whether the bund would be an intrusion into the landscape; and whether the transport of material to the site would cause hazards, congestion and damage to the verges of the lane leading to the site, and if so whether the advantages of reductions in noise are so great as to outweigh the disadvantages.
- The appeal site is open agricultural land, much of it set aside from production at present. The site is roughly level, whereas land to the south and west of Windmill Road slopes away towards Markyate and the M1 motorway.

The shooting ground lies some 350m to the north east of the proposed bund, concealed in a wood as the ground begins to slope, accessed from Windmill Road. All along the roadside tall hedges, occasionally thickening to narrow copses, restrict views into the site to glimpses through gaps. Whilst a substantial amount of the hedging is deciduous, there are a significant proportion of holly trees and shrubs which remain evergreen. To the south west, fronting the lane are four dwellings, hidden behind similarly dense hedges. The area has the appearance of pleasant countryside.

6. Planning policies contained in the approved Hertfordshire County Structure Plan set out to conserve the landscape; development which will have a detrimental effect upon the landscape will not normally be acceptable. The adopted Dacorum District Plan expects development in rural areas to include, where appropriate, proposals for landscape improvement and enhancement. Development control powers will be exercised in the light of the advice of Circular 10/73, which gives guidance on planning and noise.

7. The essence of the difference between you and the Council was that whilst it was your view that there were benefits to the additional planting proposed, and that taken altogether, the landscaped bund would not harm the landscape, the Council considered that it would cut out the perception of openness through gaps in the surrounding hedges, and the views of the inner face, which would be kept covered in herbage, rather than woodland, would be intrusive in the landscape. Although you point out that the landscape is generally man made, there is little of it hereabouts which could not be considered to be part of an evolutionary rural landscape. The bund would be quite alien to this, and would be a discordant feature. In itself it could not fail to run counter to the policies which aim at improving the landscape.

8. Much of the intrusion would be mitigated by the intensive planting proposed, which added to the dense, tall hedgerows bordering the site would give the impression of a depth of woodland when seen from the road, and would assimilate the bund into the landscape. I do not consider that the loss of the more open glimpses would be significant, since this could occur at any time should the landowner take advantage of the present encouragement of tree planting in the countryside. Public views of the inner face of the bund are few from close range, but I saw that from a public footpath about 1km away the inner face would be quite prominent, and would reduce the amount of trees and hedgerows beyond it which could presently be seen. You described it as having the characteristics of an unmown road embankment. Whilst this may benefit wildlife, I am not convinced that it would appear to have a place in this landscape.

9. In order to construct the bund it is proposed to import some 45,000 cu m of fill material, by way of Hicks Road, the extension of Windmill Road to the A5 at Markyate. This lane is a single track between banks, running downhill from the site access. At intervals traffic has overrun the edges of the banks and the verges, where there are any, to make informal passing places. You estimate that the bund would be constructed over about one year, giving rise to about 95 lorry movements a week, or an average of 1 every 25 minutes of working time. The peak flow on the lane at present had been surveyed as 18 vehicles an hour, and you deduce that the likelihood of vehicles meeting in the 490 metres of the lane would be small. Your client is prepared to form and pave widened areas in order to provide for two vehicles to pass, and if required would reinstate the lane and any affected roadside vegetation in order to restore the character of the lane. Conflict between lorries going to and from the site would be unlikely, since the frequency would be low, and drivers tend to employ radio communication in order to avoid delays.

10. To my mind it would be possible to manage the use of the lane and make passing places so that unacceptable hazards and congestion were avoided, although I do not doubt that on occasion inconvenience would be caused. Some, though not all of the passing paces required could be installed without significantly eroding the banks of the lane. Bearing in mind the temporary nature of the works, I consider that the use of the lane as a means of access would be unlikely to have any permanent impact upon its rural character, and the harm would be limited to temporary inconvenience, noise and the effects of a certain amount of mud and dust being carried onto the road.

11. Against the undesirable effect of the intrusion of the bund into the landscape, and the impact of construction traffic, must be balanced the reduction in noise levels which the bund would produce. Whilst local people were understandably sceptical of the improvement forecast by your expert witness, and instanced a poorly designed bund at a nearby shooting range, I accept that a significant reduction in noise levels, of the order of 10 dBA, could be achieved at dwellings on the opposite side of Windmill Road.

12. The Noise Abatement Order against your client appears to have arisen after the acceptance by the Council of the validity of complaint by local residents; such was the strength of evidence that the Council were prepared to pursue the matter through the courts, and the court saw fit to apply significant restrictions upon the activities of the club. At the time of my visit shooting was in progress at a rate which was below that permitted, but I am well able to appreciate the degree of disturbance which could arise around the appeal site from the permitted levels. Whilst I acknowledge that at times the wind may prevent sound from the club reaching the dwellings concerned, the improvement which would stem from the construction of the bund is so necessary as to outweigh its negative aspects and the impact of the transport of materials to its site.

13. The appeal will therefore succeed. I agree with both principal parties that once construction has started it should be completed within a reasonable time, although I do not consider it necessary that planning conditions should require the work to be begun within a specified time, since it seems that the terms of the Noise Abatement Order require an early start to the works. Further details of the landscaping and protection of existing trees will be required, and it will be necessary to agree a scheme for the provision of passing places in Hicks Road, which should include such measures as are necessary to protect or reinstate the rural character of the lane. Matters of access and the cleaning of wheels of lorries leaving the site will require approval. Working should be confined to normal working hours on weekdays. The acoustic performance of the bund requires that it is kept free of vertical hard surfaces.

14. I have taken into account all other matters raised at the inquiry and in the written representations, including evidence that holly trees may not grow as fast as claimed by your witness, and that the bund may reduce the level of noise at the dwellings concerned from the M1, but I do not find that they outweigh the planning considerations which have led me to my conclusions.

15. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal, and grant planning permission for the erection of an earth screening bund to reduce sound in a field adjacent to the Broomhill Shooting Ground, Windmill Road, Markyate, in accordance with the terms of the application (ref 4/2254/88) dated 26 November 1988, and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun not later than five years from the date of this letter.
2. 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.
3. 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 completion of the development, and any trees or plants which within a period of five years from the completion of 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.
4. No works shall commence on the site unless passing places have been provided in Hicks Road in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The approved scheme shall include such measures as are necessary to reinstate the rural character of the lane following the completion of the development.
5. All earthworks which are the subject of this permission shall be completed within one year of the delivery of the first load of fill material.
6. No development shall take place unless a scheme for the prevention of earth and mud being carried onto the highway has been submitted to and approved in writing by the local planning authority; and the works comprised in the approved scheme shall be brought into use before any fill material is brought to the site.
7. No development shall take place unless a scheme for the formation of an access to the site has been implemented in accordance with a scheme to be submitted to and approved in writing by the local planning authority.
8. Notwithstanding the provisions of the Town and Country Planning Act General Development Order 1988 (or any order revoking or re-enacting that order), no trees or plants (other than those forming part of the approved landscaping scheme), fences, walls or other structures shall be planted, erected or placed anywhere within the site, except with the prior written approval of the local planning authority.
9. No works of construction shall be carried out before 0800 hrs or after 1800 hrs, and not at any time on a Saturday or Sunday.
16. Attention is drawn to the fact that 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 approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

17. 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.

I am Gentlemen

Your obedient Servant

A handwritten signature in cursive script that reads "David Ward".

David Ward BSc(Hons) CEng MICE FIHT  
Inspector

APPEARANCES

T/APP/A1910/A/89/145402/P5

FOR THE APPELLANT

Mr Gerald Park, Solicitor,

Park Woodfine & Co, Solicitors,  
1, Lurke Street, Bedford  
MK40 3TN

He called:

Mr B Duckett BSc(Hons) DipLD ALI

Glen Kemp Hankinson, Landscape  
Architects, Planning  
Consultants, Landscape Studio,  
Lower Basildon, Reading RG8 9NE

Mr G M Burrows MIHT Partner in

Wormald Burrows Partnership,  
Consultant Civil Engineers,  
Hitchin Street, Biggleswade,  
Beds.

Mr C S Waters MSc BSc(Eng) C Eng MRAeS FIOA, Principal in

Colin Waters Acoustics,  
77, Wycombe Road, Prestwood,  
Great Missenden, Herts HP16 OHW

FOR THE LOCAL PLANNING AUTHORITY

Mr S Baker, Solicitor

With the Council

He called:

Mr J R Doe, BSc(Hons) MRTPI

Senior Planning Officer with  
the Council.

REPRESENTING THE MARKYATE PARISH COUNCIL

Mr J Caswell

Mrs J Fryer, Clerk to the  
Council, 4, Manse Court,  
Markyate, St Albans, Herts.

INTERESTED PERSONS

Mr J Saxby,

Bonnors Farm, Pepperstock,  
Luton, Beds.

Mrs S Sullivan

Bonnors Farm, Pepperstock,  
Luton, Beds. LU4 4LQ

Mr Hamilton

High Winds Farm, Hicks Road,  
Markyate, Herts.



DOCUMENTS

Ref T/APP/A1910/A/89/145402/P5

- Document 1. List of persons present at the inquiry.
- Document 2. The Council's letter of notification of the inquiry.
- Document 3. 5 letters in response to Document 2.
- Document 4. Appendices to Mr Duckett's proof, including plans of a proposed landscaping scheme and 14 photos of the site and surroundings.
- Document 5. Traffic count appended to Mr Burrows' proof.
- Document 6. Appendices to Mr Waters' proof.
- Document 7. Bundle of documents put in by the Council, including:  
LPA 9 extracts from the approved Hertfordshire Structure Plan  
LPA10 extracts from the adopted Dacorum District Plan  
LPA11 extracts from the draft Dacorum Borough Local Plan  
LPA12 Notice under the Control of Pollution Act 1974, 19.7 89.

PLANS

- Plan A The application Plan.
- Plan B Location Plan to a scale of 1:50000.
- Plan C Plan of the site and its surroundings to a scale of 1:2500.
- Plan D Copy of the submitted application plan, before amendment.
- Plan E Plan of Hicks Road showing the location of sites at which passing places might be considered.

PHOTOS

- Photo 1 The appeal site.
- Photo 2 Showing an earth bund at the Lea Valley Shoot, Hertford.
- Photos 3 & 4 Showing a lorry in Hicks Road.