

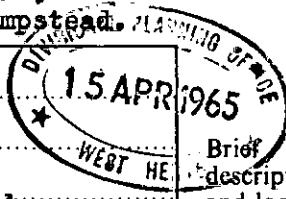
H.C.C.
Code No. W/451/65
L.A.
Ref. No. BR/21/65

ADMINISTRATIVE COUNTY OF HERTFORD

The Council of the ~~BOROUGH OF~~
~~URBAN DISTRICT OF~~
RURAL DISTRICT OF BERKHAMSTED

TOWN & COUNTRY PLANNING ACT, 1962

To: Mr. G.M. Franzl,
8 Marlins Turn,
Hemel Hempstead.
per A.J. Harry, Esq.,
5/6 Stephyns Chambers,
Bank Court,
Hemel Hempstead.



.....
..... Site for agricultural dwelling,
at Crossways Farm, Nettleden, Nr. Hemel Hempstead. Brief description and location of proposed development.

In pursuance of their delegated powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council on behalf of the Local Planning Authority hereby refuse the development proposed by you in your application dated 17th February, 1965 and received with sufficient particulars on 24th February, 1965 and shewn on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

The site is within a proposed extension to the Metropolitan Green Belt where it is the policy of the Local Planning Authority not to allow development unless it is required for agricultural or allied purposes. No such need has been proved.

Dated 6th day of April 1965.

[Signature]
Clerk/Surveyor of the Council.

NOTE.

(1) If the applicant wishes to have an explanation of the reasons for this refusal 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 by notice served within one month of receipt of this notice, appeal to the Minister of Housing and Local Government in accordance with Section 23 of the Town and Country Planning Act, 1962. The Minister has power to allow a longer period for the giving of a Notice of Appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed development are in progress. The Minister is not, however, required to entertain such 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 provision of Section 17(1), 18(1) and 38 of the Act and of the Development Order and to any directions given under the Order.

(3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Minister of Housing and Local Government, 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 Council of the County District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with Section 129 of the Town and Country Planning Act, 1962.

(4) In certain circumstances, a claim may be made against the local planning authority or the Minister of Housing and Local Government for compensation, where permission is refused, or granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 123 and Part VI of the Town and Country Planning Act, 1962.

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The Council of the ~~BOROUGH OF~~
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TOWN & COUNTRY PLANNING ACT, 1962

To

Mr. G.M. Franzl,
8 Marlins Turn,
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per

A.J. Harry, Esq.,
5/6 Stephyns Chambers,
Bank Court,
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at	Site for agricultural dwelling, Crossways Farm, Nettleden, Nr. Hemel Hempstead.
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The reasons for the Council's decision to refuse permission for the development are:—

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Dated day of 19.....
6th April 65.

[Signature]
Clerk/Surveyor of the Council.

NOTE.

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MINISTRY OF HOUSING & LOCAL GOVERNMENT

Whitehall, LONDON, S.W.1

Telegrams: Locaplan, Parl, London

Telephone: TRAFALGAR 8020

, ext. 113

Sum A

Please address any reply to

THE SECRETARY

and quote: APP/1919/A/96805

Your reference: AJH/AJB

W/451765



JAN 1966

Sir,

Town and Country Planning Act 1962 - Section 23
Appeal by Mr. G. M. Franzl

1. I am directed by the Minister of Housing and Local Government to refer to the report of his Inspector, Mr. H. N. F. Patterson, B.A., F.R.I.C.S., on the local inquiry into your client's appeal against the refusal of the Berkhamsted Rural District Council, acting on behalf of the Hertfordshire County Council, to permit the erection of an agricultural dwelling on land near Potters End, Berkhamsted.

... 2. The Inspector, a copy of whose report is enclosed, was of the opinion that the erection of a dwelling on this site would not be justified. Since your client did not intend to work full-time on the holding and his father-in-law had no agricultural experience, there must be a considerable element of risk in his proposed calf-rearing venture. Since the site was in the proposed extension to the metropolitan green belt and outside the limits of any settlement, only development essential in the interests of agriculture should normally be permitted on it. The Inspector did not consider that the proposed house was essential in the interests of agriculture and, as there appeared to be no exceptional circumstances in this case, he was of the opinion that it should not be erected. He made no observations on the proposed building for calf-rearing since its dimensions would appear to make its erection permissible under the General Development Order 1963. The Inspector recommended that the appeal be dismissed.

3. The Minister notes that the appeal is expressed as relating only to the erection of an agricultural dwelling. He sees no reason to disagree with the Inspector's conclusions thereon and he accepts his recommendation; accordingly he hereby dismisses your client's appeal.

I am, Sir,
Your obedient Servant,

H. C. HOLLINGTON

(H. C. HOLLINGTON)

Authorised by the Minister
to sign in that behalf.

A. J. Harry Esq. M.A.
5/6 Stephyns Chambers
Bank Court
Marlowes
HEMEL HEMPSTEAD
Hertfordshire

HERTFORDSHIRE COUNTY COUNCIL

BERKHAMSTED RURAL DISTRICT COUNCIL

APPEAL

by

MR. G. M. FRANZL

Inspector: H. N. F. Patterson, B.A., F.R.I.C.S.

Date of Inquiry: 24th November 1965.

File No: APP/1919/A/96805.

Whitehall,

London, S.W.1.

10th December 1965.

To The Right Honourable Richard Crossman, O.B.E., M.P.,
Minister of Housing and Local Government.

Sir,

I have the honour to report that on 24th November 1965, I held an inquiry (in the place of Mr. Cook-Hall), at Berkhamsted Rural District Council Offices, into an appeal by Mr. G. M. Franzl, under section 23 of the Town and Country Planning Act 1962, against the refusal of the Berkhamsted Rural District Council, acting on behalf of the Hertfordshire County Council, to permit the erection of a dwellinghouse and a farm building on approximately 11 acres of land near Potten End, Berkhamsted.

1. The Reasons for Refusal are:-

The site is within a proposed extension to the metropolitan green belt, where it is the policy of the local planning authority not to allow development unless it is required for agricultural or allied purposes. No such need has been proved.

2. This report includes a description of the appeal site and surroundings, the gist of the representations made at the inquiry and my findings of fact, conclusions and recommendation. Lists of appearances, documents and plans are attached.

THE SITE AND SURROUNDINGS

3. The site is about $1\frac{1}{2}$ miles north-east of Berkhamsted, between the village of Potten End and the hamlet of Frithsden (Plan A).

4. The site is an arable field with an area of about 11 acres. It is on the north-western side of a spur projecting in a north-easterly direction from the western part of Potten End.

5. The site has a frontage of about 1,000 feet to an unclassified road connecting Berkhamsted with the village of Nettleden. This road follows the foot of a small valley on the north-western boundary of the site.

6. To the south-east of the site is a sports ground and to the south is a group of houses on the western outskirts of Potten End. The site is otherwise surrounded by agricultural land. There is a narrow spinney along the greater part of the eastern boundary.

7. There is scattered development along the country road, including a boarding kennels about 100 yards north of the site, Nettleden Farm House about 250 yards to the north-east and a group of three dwellings at Crossways Farm, about 600 yards to the east. The hamlet of Frithsden is about 200 yards to the north of the site.

8. Due to its upward slope from north-west to south-east, the site is easily visible from the country road.

CASE FOR THE APPELLANT

The material points are:-

9. The appellant purchased the site, which was part of a larger farm, in 1962, with the intention of working it as a smallholding. After consulting the County Agricultural Adviser, he has decided that calf-rearing would make the best use of the land. For this he would erect a building in the coppice on the eastern side of the site. He considers it essential to live on the site and therefore wishes to build a 4-5 bedroom house for his family and his father-in-law.

10. The appellant is the proprietor of a garage in Hemel Hempstead, where he has just bought a house. He intends to continue in that business and to work the holding on a part-time basis, most of the work being done by his father-in-law, who is retired. The appellant had about three years farming experience in Austria some 12 years ago. His father-in-law has had no agricultural experience.

11. The intention is to keep some 25 calves on the holding, the turnover being about 40 calves per annum. The profit on each calf would be about £20. The greater part of the site would remain under cultivation and some of the crop would be used for feeding the calves.

12. The proposed shed would cost about £3,000 and would measure about 25 x 60 feet, with a height of about 9 feet to the eaves. Being sited in the coppice, it would be inconspicuous.

13. The site is at present let to a farmer and this year barley was grown on it. The proposed calf-rearing business would make better use of the land.

14. The valley is not particularly attractive, due to numerous farm buildings. A well-designed house on the site would not spoil the landscape. Any condition regarding design and siting would be readily accepted.

CASE FOR THE PLANNING AUTHORITY

The material points are:-

15. The site is in a white area and in an area of great landscape value in the approved county development plan. In the first review, submitted to the Minister in December 1963 it is shown within the proposed extension to the metropolitan green belt.

16. In the written statement to the first review, the principles of the green belt policy have been stated. These include:-

- (1) The largest villages and small towns (outside town map limits) will be excluded altogether from the green belt. An area closely conforming to the extent of the present major development will be defined and within this area applications will not be subject to green belt considerations. These villages are referred to as "excluded" villages.
- (2) In villages of medium size a certain amount of infilling development may take place. The infilling will be confined to the core of the villages and not allowed in existing ribbons of development stretching outwards from the villages. These villages are referred to as "listed" villages.

- (3) In all other parts of the green belt, including small villages and hamlets and existing sporadic development, the full green belt policy of no further development except for agricultural or other essential needs will apply.

The appeal site falls within category 3 and Potten End is the nearest "listed" village.

17. Referring to applications for new dwellings in the green belt not in "excluded" or "listed" villages it is stated that permission will be refused unless it can be conclusively shown that:-

- (1) the applicant cannot obtain suitable housing accommodation in an existing building and either
- (2) loss to the local rural community or to agricultural or other essential local interests would result if planning permission were refused, because the applicant is employed in the village or the district for which it forms the logical centre, the application being supported by precise details of such employment, or
- (3) there is some quite outstanding reason, other than that under (b) above, why the council consider that the application for a new house in the green belt should be allowed.

18. In April 1964 an application was made by the appellant for the erection of a dwelling in association with the appeal site as a smallholding. This was refused on 21st August, 1964 for the following reason:-

The site is within a proposed extension of the Metropolitan Green Belt where it is the policy of the local planning authority not to allow development unless it is required for agricultural or allied purposes. No such need has been proved.

19. When the application subject of this appeal was made, the local planning authority, as is usual in such cases, held a meeting with the appellant and his agent, to enable more detailed reasons to be given for requiring a dwelling on the site. At this meeting, held on 24th March 1965, the following points emerged:-

- (1) The appellant was not engaged in farming.
- (2) The proposal involved land 11 acres in extent.
- (3) There were no buildings or livestock on the land.
- (4) The appellant intended to use the land for intensive farming to rear barley beef.
- (5) The land was then being used to grow barley.

The Ministry of Agriculture were consulted, but did not wish to give comments either for or against the proposal.

20. The highest importance is attached to the preservation of the green belt and to the prevention of all unnecessary development within it. This part of the county is under constant pressure for residential development and it is essential that only development for which there is a need is granted permission. The future proposals of the appellant are not by themselves sufficient justification for a dwelling. The land has been worked for many years without a dwelling on it.

21. Potten End is a listed village and, if it is essential to live near the site, the appellant could have taken advantage of the recent dwellings which have been erected. In fact there is at present a building plot for sale a little over $\frac{1}{2}$ mile from the appeal site.

22. Calf-rearing is a very highly specialised and chancy business. If the appellant's proposed venture should fail the house would remain on an 11-acre holding, which is not really a viable unit. It is agreed that there are a number of smaller holdings in the county but these were, in the main, established a considerable time ago.

CASES FOR INTERESTED PERSONS

23. Lt. Col. T. J. K. Cree, of The Owls House, Potten End, considers that the proposed development would tend to spoil the valley. He recalls that agricultural land has recently been for sale in this area at prices well above the market value - obviously as a speculation. He notes that the appellant intends to be only a part-time farmer.

24. Mrs. A. Lang Brown, of No. 13 Frithsden, considers the site too small for a farm unless factory methods were used. She thinks that this would be quite unacceptable on the outskirts of the village. Nuisance would be caused by smell. No further development should be permitted along the country road.

25. Mr. J. W. Martin, of Winchwicks, Frithsden Copse, does not want to see this valley spoilt. He points out that the proposed shed would be portable and could therefore be removed if the appellant's venture failed.

FINDINGS OF FACT

26. I find the following facts:-

- (1) The site is an arable field with an area of about 11 acres.
- (2) The site is on the north-west side of a spur and is surrounded on three sides by agricultural land.
- (3) The site is in an area of great landscape value and in the proposed extension to the metropolitan green belt.
- (4) It is proposed to rear about 40 calves each year on the site in a building with an area of about 1,500 square feet to be erected near its eastern boundary.
- (5) The appellant wishes to erect a house on the site to accommodate his family and his father-in-law.
- (6) The appellant is the proprietor of a garage in Hemel Hempstead, where he has recently bought a house.
- (7) The appellant intends to work part-time on the holding and that his father-in-law should work full-time.
- (8) The appellant had three years farming experience in Austria about 12 years ago. His father-in-law has had no farming experience.

CONCLUSIONS

27. Bearing in mind the above findings of fact, I am of the opinion that the erection of a dwelling on this site would not be justified. Since the appellant does not intend to work full-time on the holding and his father-in-law has no agricultural experience, there must be a considerable element of risk in his proposed calf-rearing venture. Since the site is in the proposed extension to the metropolitan green belt and outside the limits of any settlement, only development essential in the interests of agriculture should normally be permitted on it. I do not consider that the proposed house is essential in the interests of agriculture and, as there appear to be no exceptional circumstances in this case, I am of the opinion that it should not be erected. I make no observations on the proposed building for calf-rearing, since its dimensions would appear to make its erection permissible under the General Development Order 1963.

RECOMMENDATION

28. I recommend that the appeal be dismissed.

I have the honour to be,
Sir,
Your obedient Servant,

H. N. F. PATTERSON

APPEARANCES

FOR THE APPELLANT

Mr. A. J. Harry, M.A.

- Solicitor, of 5/6 Stephyns Chambers,
Bank Court, Marlowes,
Hemel Hempstead.

He called:

Mr. G. M. Franzl,

- the Appellant.

FOR THE PLANNING AUTHORITY

Mr. L. Fennell,

- Clerk of Berkhamsted Rural District
Council.

He called:

Mr. R. Myers A.M.T.P.I.

- Senior Planning Assistant,
Herts. County Council.

INTERESTED PERSONS (all objectors)

Lt. Col. T. J. K. Cree,

- of The Owls House, Potten End.

Mrs. A. Lang-Brown,

- of 13 Frithsden.

Mr. J. W. Martin,

- of Winchwicks, Frithsden Copse.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

Document 2 - Letter to local residents, etc., from Berkhamsted Rural District Council.

Document 3 - Ten replies to Document 2, supporting the Council (letters 3A-J).

PLANS

Plan A - Six inch map showing proposals of the first review to county development and recent applications in the vicinity of the site.



MINISTRY OF HOUSING & LOCAL GOVERNMENT

Whitehall, LONDON, S.W.1

Telegrams: Locaplan, Parl, London

Telephone: TRAFalgar 8020

, ext. 113

Sum A

Please address any reply to

THE SECRETARY

and quote: APP/1919/A/96805

Your reference: AJH/AJB

W/451-65

24 JAN 1966

Sir,

Town and Country Planning Act 1962 - Section 23
Appeal by Mr. G. M. Franzl



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3. The Minister notes that the appeal is expressed as relating only to the erection of an agricultural dwelling. He sees no reason to disagree with the Inspector's conclusions thereon and he accepts his recommendation; accordingly he hereby dismisses your client's appeal.

I am, Sir,

Your obedient Servant,

H. C. HOLLINGTON

(H. C. HOLLINGTON)

Authorised by the Minister
to sign in that behalf.

A. J. Harry Esq. M.A.
5/6 Stephyns Chambers
Bank Court
Marlowes
HEMEL HEMPSTEAD
Hertfordshire