

COLNEY HEATH PARISH COUNCIL

Highfield Park Village Centre, Hill End Lane, Herts AL4 0RA
Telephone 01727 825 314
Website www.colneyheathparishcouncil.gov.uk
Email clerk@colneyheathparishcouncil.gov.uk



Land to the Rear of 42-100 Tollgate Road & 42 Tollgate Road, Colney Heath

CD 9.13

date	Issue version	
22 Aug 2023	1	Issue to Planning Inspectorate

PLANNING HISTORY

Proof of Evidence

by

John Clemow

Colney Heath Parish Councillor

For Colney Heath Parish Council Rule 6 Party

Planning Inquiry

PINS Ref : APP/B1930/W/23/3323099

LPA REF: 5/2022/1988

SUMMARY

The Planning History of the site is extensive with over 10 applications and three appeals on record. There are discrepancies with the Statement of Common Ground CD 8.3 para 6.10.

There has been a long history of refusals for various reasons including Green Belt, proximity to Listed Buildings, over intensive development and use of the site, flooding, and effects on the amenity of nearby residents. Copies of the decision notices and appeals are attached at Appendix 1 and are summarised below.

The planning history and framework for this Green Belt site based on these decisions and appeals shows very clearly that the authorities have sought to protect the site from inappropriate development.

The absence of required planning history for development - storage containers and the manège - is relevant.

1 **Applications history**

- 1.1 5/1982/1459 – refused - 1 house next to 42 Tollgate Road. Reason = Green Belt
- 1.2 5/1990/1045 – refused - access, car parking, floodlit driving range, club house, ancillary works. Reason = greenbelt, detrimental effect on residential amenities of adjoining properties, over development and over intensive use of the site resulting in a visually intrusive appearance to the detriment of the amenity of the locality
- 1.3 5/1990/0974 – refused- change of use from agricultural to golf course. Reason = loss of important historic and physiographic features and flora, unacceptable loss of a habitat of ecological importance
- 1.4 5/1990/1708 – refused - clubhouse, new access, car park, ancillary works. Reason = golf course refused + adverse impact on Grade II listed building and the amenity of nearby residents
- 1.5 Appeal T/APP/B1930/A/90/173308 and T/APP/B1930/A/91/180421/P2 re: 5/1990/0974 and 5/1190/1708 – refused clubhouse etc, allowed golf course. Reason = detract from the setting of a listed building
- 1.6 5/1992/1126 – refused- conversion of cow shed to golf clubhouse, new access and car parking. Reason = over intensification in the use of the site to the detriment of local residents. Car parking facilities would cause demonstrable visual harm and aural detriment to the amenities of local residents.

- 1.7 5/1994/0314 – refused - clubhouse, new access and parking. Reason = clutter of ancillary buildings, detrimental effect on a listed building, over intensification of the use of the site to the detriment of local residents
- 1.8 Appeal T/APP/B1930/A/94/241885/P7 re: 5/1994/0314 - refused. Reason = sale of part of the land means the golf course has to be smaller, erode the setting of the listed building
- 1.9 5/1994/1537 -refused - use of land for car boot sales. Reason = Green Belt, adverse effect on the rural character and appearance of the area, unacceptable levels of noise and disturbance, detrimental to the residential amenity of adjoining occupiers
- 1.10 5/1996/0521 - refused - use of land for car boot sales. Reason = greenbelt, affect the rural character and appearance of the area, unacceptable levels of noise and disturbance, detrimental to the residential amenity of adjoining occupiers
- 1.11 5/1996/1554 – refused – stable block and vehicular crossover and access road. Reason = direct risk of flooding (as shown on Environment Agency maps) and risk of flooding elsewhere (flooding recorded in 1987), close proximity to the River Colne
- 1.12 5/1996/0787 – refused – erection of stable - size and siting
- 1.13 5/1996/1240 – granted with conditions- 7 stables with associated grooming and storage facilities. Conditions include a limited 3 year time period, a restriction to stables for private purposes only (no trade or business to be carried out on or from the site) and conditions around drainage and the protection of any watercourse.
- 1.14 Appeal T/APP/B1930/A/97/279137/P8 re:5/1996/1240 – appeal against Condition No.1 only ie. the 3 year time limitation – allowed. All other conditions remain in place.
- 1.15 5/1997/0779 – granted with condition – hard surface access, drive and turning area. Granted subject to an agreed landscaping scheme (however no evidence has been found that this was ever completed)

2 **Discrepancy regarding stables**

- 2.1 The application granted for the stables (5/1996/1240) was for a stable block of 38m in length containing just 7 stables and associated storage and

grooming facilities (as shown on the plans downloaded from the LPA planning portal and attached at Appendix 1). It is unclear how this has now been agreed in the Statement of Common Ground as being 12 stables.

3 Absence of planning history

- 3.1 There is no evidence of planning permission being sought or granted for the storage containers on site (and mentioned in the Statement of Common Ground at 6.10).
- 3.2 The final page of the plans associated with this application (attached at Appendix 1) shows a letter from a St Albans Council Planning Enforcement Officer who had visited the site. The letter requires the removal of a metal container and a box trailer unit which do not have planning permission. It also asks for confirmation in writing as to whether other persons have use of the stables for their own horses contrary to the condition that limits the stables to private use.
- 3.3 There is no evidence of planning permission being sought or granted for the manège mentioned in the Statement of Common Ground at 6.10 which was built in 2018 and would have required substantial engineering works to create a flat area with suitable drainage and surfacing.

APPENDIX 1

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.4

Town Planning
Ref No. 5/1459/82.....

TOWN & COUNTRY PLANNING ACTS, 1971 AND 1972

Other
Ref No.

THE DISTRICT COUNCIL OF ST. ALBANS IN THE COUNTY OF HERTFORD

To: Mr J Paxton
Per: Norris & Duvall
106 Fore Street
Hertford
Herts
SG14 1AH

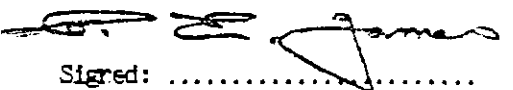
One residential unit adjacent to
..... Brief description and location
at 42 Tollgate Road, Colney Heath of proposed development.
.....

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 25 November 1982 and received with sufficient particulars on ... 26 November 1982 and shown on the plan(s) attached. Drawing No 0224/B

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

The site is within an area shown diagrammatically in the approved County Structure Plan as Metropolitan Green Belt, the precise boundaries of which are defined in the St Albans District Plan. Policy 2 of the Structure Plan states that in the Green Belt permission will not be given, except in very special circumstances, for development other than agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. The proposed development cannot be justified in terms of the purposes specified and no exceptional circumstances are apparent in this case.

Dated 13 day of January 19 83


Signed:

Designation: Director of Finance and Administration

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision 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 appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. 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.
- (3) 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 District 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.
- (4) In certain circumstances, a claim may be made against the local planning authority 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 section 169 of the Town and Country Planning Act 1971.

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D.C.4

Ref No. 5/90/1045

TOWN AND COUNTRY PLANNING ACT, 1971

CITY AND DISTRICT OF ST ALBANS

TO: AGENT

Mr S J Rogers
Templars Building Surveyors Ltd
Manor House
21 High Street
Baldock, Herts SG7 6AZ

APPLICANT

Mr Tony Cleary
Colney Heath Farm
Coursers Road
Colney Heath
St Albans, Herts

Construction of access, car parking, floodlit driving range, clubhouse and ancillary works. (Outline)

Colney Heath Farm, Coursers Road, Colney Heath, St Albans, Herts

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 18th May 1990 and received with sufficient particulars on 4th June 1990 and shown on the plan(s) attached.

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

- 1 The site is within an area described in the approved County Structure Plan as Metropolitan Green Belt, the precise boundaries of which have been defined in the St Albans District Plan. Within the Green Belt permission will not be given except in very special circumstances for development for purposes other than that required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation, or other uses appropriate to a rural area. The proposed development cannot be justified in terms of the purposes specified and no exceptional circumstances are apparent in this case.
- 2 By reason of its close proximity and siting to adjoining properties, the proposed illuminated driving range, clubhouse and associated facilities would have a detrimental effect on the residential amenities of these occupiers, contrary to Policy 45 of the St Albans District Plan.
- 3 The proposal would result in an overdevelopment and over intensive use of the site resulting in a visually intrusive appearance to the detriment of the amenity of the locality.

Dated 31st July 1990

Signed

Chief Planning Officer

MDEM 72

SEE ATTACHED SHEET FOR NOTES

- 1 ADDITIONAL NOTES IN ACCORDANCE WITH DEPARTMENT OF THE ENVIRONMENT CIRCULAR NO. 1/85 THIS MATTER IS ADVISORY AND DOES NOT FORM PART OF THE FORMAL DECISION. Any proposal to divert a public footpath would require special consent.

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D.C.4

Ref No. 5/90/1708

TOWN AND COUNTRY PLANNING ACT, 1990

CITY AND DISTRICT OF ST ALBANS

TO: AGENT

Mr S J Rogers
Templars Building Surveyors
Manor House
21 High Street
Baldock Herts

APPLICANT

Tony Cleary
Colney Heath Farm
Coursers Road
Colney Heath
St Albans Herts

Construction of clubhouse, new access, car park and ancillary works
(outline)

Colney Heath Farm, Coursers Road, Colney Heath

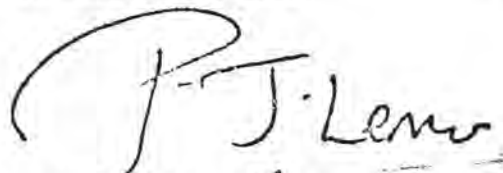
In pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated 28th August 1990 and received with sufficient particulars on 6th September 1990 and shown on the plan(s) attached.

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

- 1 The proposed Clubhouse in this Metropolitan Green Belt location, in the absence of a planning permission for the use of the land as a golf course, is considered inappropriate and therefore undesirable. From the information provided the proposal would, amongst other things, have an adverse impact on the setting of a Grade II Listed Building and the amenity of nearby residents.

Dated 2nd October 1990

Signed



Chief Planning Officer

PL

SEE ATTACHED SHEET FOR NOTES

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.4

Ref No. 5/90/0974

TOWN AND COUNTRY PLANNING ACT, 1990

CITY AND DISTRICT OF ST ALBANS

TO: AGENT

Mr S J Rogers
Templars Building Surveyors
Manor House
21 High Street
Baldock Herts SG7 6AZ

APPLICANT

Mr Tony Cleary
Colney Heath Farm
Coursers Road
Colney Heath
St Albans Herts

Change of use from agricultural to golf course

Colney Heath Farm, Coursers Road, Colney Heath, St Albans

In pursuance of their powers under the above-mentioned Act 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 18th May 1990 and received with sufficient particulars on 24th May 1990 and shown on the plan(s) attached.

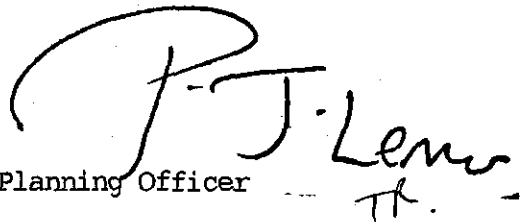
The reasons for the Council's decision to refuse permission for the development are:-

- 1 The proposed use of the site as a golf course would be likely to result in the loss of important historic and physiographic features comprising wetland habitats and calcareous grassland which support important, interesting and diverse flora, resulting in the unacceptable loss of a habitat of ecological importance

Dated 2nd October 1990

Signed

Chief Planning Officer



P. J. Lewis
th.

SEE ATTACHED SHEET FOR NOTES



Planning Inspectorate

Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218927

Switchboard 0272-218811

GTN 1374

Sherrards,
35, Market Place,
St. Albans,
Hertfordshire,
AL3 5DN

YOUR REFERENCE

GF.LD.CLEARY

OUR REFERENCE

T/APP/B1930/A/90/173308 &

T/APP/B1930/A/91/180421/P2

DATE

70 MAR 1992

Gentlemen,

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR A J CLEARY
APPLICATION NO'S:- 5/90/0974 & 5/90/1708

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals against the decisions of the Council of the City and District of St Albans to refuse A, planning permission for the change of use of land from agricultural to use as a 9-hole golf course and practice driving range, and B, outline permission for the construction of a clubhouse, new access, carpark and ancillary works at Colney Heath Farm, Colney Heath, St Albans. I held a local inquiry into the appeal on 10 and 11 of December 1991. At the inquiry, an application was made on behalf of the appellants for an award of costs against the Local Planning Authority. This is the subject of a separate letter.

2. As far as appeal A is concerned, the site is located within the Metropolitan Green Belt. Paragraph 5 of Planning Policy Guidance Note 2 indicates that Green Belts have a positive role in providing access to open countryside for the urban population and that such access may be for active outdoor sports. It goes on to state that outdoor leisure pursuits are likely to occupy an increasing proportion of the Green Belt if, land needed for food production decreases. PPG17 points out that "outdoor sport" is a land use which will often be appropriate in the Green Belt and may offer an opportunity to improve its environmental quality. That Guidance Note also states that golf courses can open up the countryside for recreation but should be located and designed to ensure harmony with the surrounding countryside and to conserve the natural countryside.

3. The Hertfordshire Structure Plan echoes this approach and identifies acceptable locations for sports provision which includes river valleys. Golf courses are identified as a medium intensity leisure activity. Both the Structure Plan and the Draft St Albans District Plan Review seek to protect natural habitats. The Eastern Council for Sport and Recreation have indicated that there is a particular requirement for short golf courses of the type proposed, to enable new players to take up the game.

4. I have, therefore, come to the conclusion that, in principle and in the absence of other objections, a golf course, would be an appropriate use of the appeal site. As a result of my visit to the site and surrounding area, the evidence and my reading of the representations I consider that the main issues



in respect of appeal A, are firstly, whether or not the proposed golf course would have a harmful effect upon the surrounding area, and secondly, whether it would have an unacceptable ecological impact.

5. On the first issue, the majority of the appeal site consists of agricultural land currently under grass. In my view, the fields have no intrinsic visual quality, although their appearance is enhanced by the extensive woodland to the west, as well as by the line of alder in the north western corner of the site and the trees which stand towards its south-eastern edge. A public footpath crosses the fields from Tollgate Road to Coursers Road. Views from this include the woodland but also the suburban housing of Roestock, the buildings of Colney Heath Farm, together with glimpses of the traditional buildings of Colney Heath itself.

6. A number of local residents have expressed concern that the proposed change of use would damage the appearance of the area. In an area close to the northern edges of London where development is thick on the ground, open spaces such as the appeal site clearly provide valuable amenity space. However, the protection of private views is not a function of the planning system, and in any event, if the land were to become a golf course, it would remain open in character. To my mind, the submitted scheme which envisages the retention of a large number of trees and extensive integral landscaping would enhance the appearance of the area. Clearly there would be an increase in activity but in view of established and emerging national and local policies which I have discussed, I do not consider that this would justify dismissing the appeal. I have, therefore, come to the conclusion that the proposed golf course would not have a harmful impact upon the character of the area.

7. On the second issue, there was no disagreement that the north-western section of the site nearer to Tollgate Road which was once arable land is of no particular ecological significance. Similarly, it was agreed that the field margins and the strip of land adjacent to the River Colne are of most interest, in particular the long established semi-natural grassland. There was disagreement, however on the need to conserve this area as well as on the likely ecological impact of the project. I noted that the lists of flora produced by the Council are more comprehensive than those submitted those on behalf of the appellants. It is clear that there has been a substantial loss of both semi-natural neutral grassland and lowland heath and acidic grasslands over a number of years. This is not surprising in a county such as Hertfordshire which has been intensively farmed for many years and which has also experienced extensive urbanisation. However I accept that habitats which are currently to be found on the appeal site are now rare in the County, although I did not find the evidence regarding the possible impact upon Colney Heath itself so convincing. I also appreciate the concern of the Environmental Records Centre to preserve such habitats.

8. Although there are locally rare species and habitats, none of these are statutorily protected or included in any designated area. The golf course proposals, as discussed at length at the inquiry would, I consider, result in some habitat loss. On the other hand, the new planting with effective management could ultimately lead to an interesting and accessible new habitat. In my opinion, it could also lead to an increase in fauna in the area and would not have the detrimental impact on wildlife suggested by the owner of Colne Spring House. In coming to these conclusions I have borne in mind the advice contained in the former Nature Conservancy Council's publication "Course Conservation", which was submitted with the appeal application. I also consider that the public footpath could be maintained, and satisfactorily and safely integrated into the scheme. It is my firm opinion that these advantages combined with the provision of a small golf course for which a need has been identified, in a location which accords with policy requirements, outweigh any

losses of existing habitat. In coming to my conclusions I have taken into account the point that if planning permission is not forthcoming the existing habitat could be detrimentally affected either by a change in farming activity or as a result of neglect.

9. With regard to appeal B, I agree with the Council's statement that, although there was no objection to the principle of reasonable ancillary development, in the absence of a planning permission for the golf course, it would have been irresponsible to permit building in the Green Belt which had no direct connection with the use of land. Circumstances have now changed as I am allowing the appeal in respect of the proposed golf course. Consequently I consider that the main issue in respect of appeal B is whether the proposal for the construction of a clubhouse, new access, carpark and ancillary works, would have an unacceptable impact upon the setting of a Grade II Listed Building.

10. The appeal application was in outline, with only landscaping reserved for future consideration. There have been two other appeals in respect of the Listed Building. In his decision letter in respect of the earlier of the two (T/APP/B1930/E/90/806989/P8), the Inspector stated that in his opinion, it is a well-scaled building of strong architectural character, with many pleasing characteristics and which is a feature of the local landscape. I noted that repair work is taking place. Paragraph 25 of Circular 8/87 indicates that the setting of buildings of special architectural and historic interest is often an essential feature of its character. In this case, the Listed Building is part of a group of buildings which form part of its setting along with the adjoining fields. The quality of the setting of Colney House Farm is, unfortunately, already undermined by the buildings with roofs of corrugated sheeting which stand to the east of the farmhouse.

11. The group, including that under repair, is clearly visible from a number of public viewpoints along the footpath across the golf course site and from Tollgate Road. It would also be seen, as the Council pointed out from nearer points of the golfcourse. The proposed clubhouse would, to some extent, screen the building with the sheet roof which stands nearest to the farmhouse. In addition it would also partially screen the Listed Building itself. In my view, although the submitted designs of the clubhouse are simple and the building would be small, because of the shallow roof pitch and the modern fenestration, it would not relate sympathetically to the Colney Heath Farmhouse. I do not consider that landscaping would overcome these problems. The appeal proposals would, if allowed, become part of the setting of the Listed Building. It is, therefore, my firm opinion that the proposed clubhouse, because of its siting and design, would exacerbate the existing unsatisfactory situation and would further detract from the setting of a Listed Building contrary to established policy.

12. It was stated at the inquiry that planning permission for the golf course alone would not be reasonable. There are two separate appeals for my determination. I find the golf course proposal acceptable but not that relating to the clubhouse. I appreciate the difficulties for your client. Other possibilities were not discussed, and in any event would not be for my decision. In view of my conclusions regarding the setting of the Listed Building it would not be appropriate to grant planning permission for the proposed club house and the associated development.

13. As far as conditions are concerned, it was suggested on behalf of the appellants in respect of appeal A, that it should be allowed subject to specific conditions relating to landscaping, protection and management. At the inquiry, because of the ecological implications, the need for careful control and management of the landscaping was emphasised on behalf of the Council. I

accept the importance of this and shall, therefore together with the standard time condition, impose conditions along the lines of the model landscape conditions in Circular 1/85 but suitably modified to include provision for ecological management. It seems to me that these would also protect the interests of the British Pipeline Agency Limited which was discussed in post-inquiry correspondence.

14. A number of local residents had expressed concern at the impact of the proposals on the local highway network. It is my opinion that currently, congestion and difficulties occur at the two daily peaks. I consider it unlikely that a golf course as proposed would lead to significant additional highway problems. I have taken all other points into account but have found nothing that outweighs the factors that have led to my decision

15. For the above reasons, and in exercise of the powers transferred to me I hereby dismiss appeal B, in respect of the proposed clubhouse, new access, carpark and ancillary works. I hereby allow appeal A, and grant planning permission for the change of use of land at Colney Heath Farm, Colney Heath, St Albans, in accordance with the terms of the application (No:5/90/0974) dated 18 May 1990 and the plans submitted therewith subject to the following conditions:-

1. that the development hereby permitted shall be begun not later than 5 years from the date of this decision letter.

2. no development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and ecological management, which shall include indications of all existing trees, shrubs 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, 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.

16. 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 the authority fail to give notice of their decision within the prescribed period. The developer's attention is drawn to the enclosed note relating to the requirements of The Buildings (Disabled People) Regulations 1987.

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

Richard A. Mordey

RICHARD A MORDEY BA(HONS) MCD MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr G R S Ferin

Partner, Sherrards Solicitors,
35, Market Place, St Albans,
Hertfordshire, AL3 5DN

He called

Mr S J Rogers ARICS

Director, Templars, Building
Surveyors Ltd., Manor House, 21,
High Street, Baldock, Herts.,
SG7 6AZ

Mr G Grant BSc

Director, EcoSchemes Ltd.,
80, Amberley Road, London, W9 2JJ

FOR THE PLANNING AUTHORITY

Mr C S Turner

Solicitor, St Albans DC

He called

Mr T M Rea BA(Hons) DipTP MRTPI

Planning Officer, St Albans DC

Mr T J James BA Fellow of the
Linnean Society, Member of the
British Ecological Society

Senior Countryside Conservation
Officer, Hertfordshire
Environmental Records Centre

INTERESTED PERSONS

Mr W J Frost

St Albans District Footpath
Society, 14, The Ridgeway, St
Albans, Herts, AL4 9AT

Mr B Griffiths

Deputy Area Footpath Secretary,
Ramblers Association, 21, Cuckmans
Drive, St Albans, Herts, AL2 3AY

Mrs Platt

30, Bennetts Close, Colney Heath

Mr P A Jones

Colne Spring House, Coursers Road,
Colney Heath, St Albans, AL4 0PB

DOCUMENTS

Document 1 - List of persons present at the inquiry

- " 2 - Copy of the notice of the inquiry and the circulation list
- " 3 - Letters in support of the appeal proposals
- " 4 - Letters objecting to the appeal proposals
- " 5 - Appendices to Mr Roger's proof of evidence

- " 6 - Appendices to Mr Grant's proof of evidence
- " 7 - Appendices to Mr Rea's proof of evidence
- " 8 - Appendices to Mr James' proof of evidence

PLAN

Plan A - Colney Heath Golf Course - The application plan - Appeal A

Plan B - Clubhouse, carpark and access - plans and elevations - The application plan - Appeal B



Planning Inspectorate

Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218927

Switchboard 0272-218811

GTN 1374

Sherrards
35, Market Place,
St. Albans,
Hertfordshire
AL3 5DN

YOUR REFERENCE

GF.LD.CLEARY

T/APP/B1930/A/90/173308 &

T/APP/B1930/A/91/180421/P2

DATE

10 MAR 1992

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPLICATION FOR COSTS BY MR A J CLEARY

1. I refer to your application for an award of costs against the Council of the City and District of St Albans which was made at the inquiry held at the Civic Centre, St Albans on 10 and 11 December 1991. The inquiry was in connection with two appeals made by Mr A J Cleary against A, the refusal of planning permission on an application for the change of use from agricultural to a 9-hole golf course and practice driving range, and against B, the refusal of outline planning permission on an application for the construction of a clubhouse, new access, carpark and ancillary works at Colney Heath Farm, Colney Heath, St Albans. A copy of my appeal decision letter is enclosed.

2. In support of your application it was stated that the handling of the appeal by the Local Planning Authority had been unreasonable and it should not have been necessary to have come before the Secretary of State. There was no mention of the ecological objection at the meetings of the planning Sub-Committee meetings in July and August 1990. They had also made fundamental errors in that there was reference to a driving range in respect of the application for the clubhouse in the Report to the Sub-Committee in October. There was also confusion on the listed Building and the delivery of the proofs of evidence and the pre-inquiry statements had been slipshod.

3. The Reasons for Refusal in respect of the application for the golf course is not a fundamental reason. There was no departure from the Development Plan and there was no other material reason. No opportunity was given to consider the initial response from the Hertfordshire Records Centre when there could have been negotiations since the Centre was opposed to the scheme in the form in which it had been submitted.

4. The case for costs in relation to the proposed clubhouse is even stronger. The only reason this was refused was because it was premature in the absence of an approval for a golfcourse. The two proposals had become separated but there was no reason why planning permission should not have been granted. There were make-weight Reasons for Refusal which did not arise from the recommendations of the officers. Consequently the Council's Planning witness was left with a difficult job. The evidence was flimsy and the design objections were inadequate. It was contrary to professional advice to say that the amenity of local residents would be affected. There was only a partial



view across a field. This objection was not supported by the site visit. The quality of evidence was totally insubstantial.

5. In response it was argued on behalf of the Local Planning Authority that Circular 2/87 states that appellants should meet their own costs. It has to be shown that the Council had behaved unreasonably. The appellants' argument is basically that problems could have been negotiated away. The chronicle of events submitted on behalf of the appellant shows that there were negotiations throughout the application stages. There was no mention of the views of the Records Centre at the meeting in July because a soil report had been requested from MAFF. Objections to the proposed clubhouse had been received.

6. The Records Centre did express concern on 17 July and suggested that a landscape plan should be prepared. By the time of the October meeting objections had been received from both the Records Centre and the St Albans Museum Section and these were reported. Both applications were dealt with on the same occasion, at the October Sub-Committee meeting. It is true that the Council omitted to publish a Section 67 notice in respect of the Listed Building but this had been resolved with the Department of the Environment. An error did not equate with unreasonableness.

7. The application for costs falls to be determined in accordance with the advice contained in Circular 2/87 and all the relevant circumstances of the appeal, irrespective of its outcome, and costs may only be awarded against a party who has behaved unreasonably.

8. I consider that although the two applications did become separated, the way in which the appeal applications were handled by the Local Planning Authority was not unreasonable. From the evidence I am satisfied that there was adequate consultation and negotiation. It was appropriate initially to delay determination of the golf course application and the appellants agreed to an extension of time but did not request a delay in determining the clubhouse application.

9. With paragraph 16, of Circular 2/87 in mind, there was no indication that the Council had refused a request to discuss the application nor that they had refused to provide information which they could reasonably have been expected to provide. Ultimately the two proposals came together and apart from an error in referring to a driving range the Planning Officer's Report was lucid and comprehensive. It is clear from the Background and Discussion sections of the Report, as well as from the Reason for Refusal in respect of Application No. 5/90/1708, that the driving range was not treated as part of the proposal.

10. The Hertfordshire Records Centre expressed strong objections to the submitted scheme and reasonably, in my view, recommended rejection of the application. Their suggestion was that any further application should be the subject of consultation. In view of the substantial technical evidence presented by the Hertfordshire Records Centre, the significant differences between the parties on the importance of the habitats of the western side of the proposed golf course site, and the strength of the objections to both the original and the modified schemes, it seems to me that little would have been achieved by negotiation prior to the determination of the appeal application. Consequently I do not consider that an appeal could have been avoided.

11. As far as the design of the clubhouse is concerned, the Planning Officer in his report to the October meeting, did not, to my mind, make a positive recommendation but implied that it would not have a very significant effect in visual terms. There was no mention of the impact upon the setting of the Listed Building. However, elected members are not bound to accept the advice of their officers and made their decision accordingly. As far as the impact

upon the amenity of local residents is concerned, there was substantial local opposition. PPG 1 states that views of local residents should be taken into account and the material question is whether a proposal would affect the locality generally and unacceptably affect amenities that ought in the public interest to be protected.

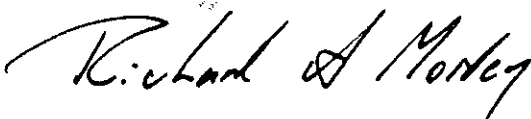
12. It was indicated that both these matters were largely for my judgement following the site visit. However I consider that comprehensive and useful evidence was presented on behalf of the Council, both in writing and during cross-examination. References were made to previous appeals in respect of the Listed Building which pointed to the architectural importance of the building. This evidence, together with my conclusions arising from the site visit, helped me to reach my decision.

13. The problem relating to advertising under Section 67 of the Planning (Listed Buildings and Conservation Areas) Act 1990 appears to have arisen as a result of some confusion following the October Sub-Committee meeting and was unfortunate. It was resolved by the Department and did not, in my view, create any particular difficulties. From the pre-inquiry correspondence, I have read that there were various programme changes and procedural problems. However I have noted the letter of 30 May from the Inspectorate to yourselves, and it is clear that the Local Planning Authority is experiencing some difficulties. These problems generated additional correspondence. It was the decision of the representatives of the appellants to outline the history of the appeal applications.

14. The delays and difficulties were unfortunate but they were resolved well in advance of the inquiry and I do not consider that the appellant was prejudiced. There were major differences on both appeals which, in my opinion, could not have been overcome prior to the inquiry. Substantial and effective evidence was presented by both parties which enabled me to arrive at my decisions. Consequently I do not consider that the Council behaved unreasonably.

15. For the above reasons, and in exercise of the powers, transferred to me I hereby refuse the application by Mr A J Cleary for an award of costs against the Council of the City and District of St Albans.

I am Gentlemen
Your obedient Servant



RICHARD A MORDEY BA(HONS) MCD MRTPI
Inspector

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.4

Ref No. 5/92/1126

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Mr Rogers
Templars Building Surveyors
Manor House
21 High Street
Baldock

APPLICANT
Tony Cleary
Colney Heath Farm
Coursers Road
Colney Heath
Herts

Conversion of cow shed to golf clubhouse, new access and car parking area

Colney Heath Farm, Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act 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 15th July 1992 and received with sufficient particulars on 20th July 1992 and shown on the plan(s) attached.

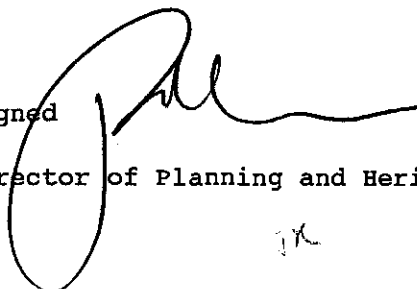
The reasons for the Council's decision to refuse permission for the development are:-

1. The facilities proposed for the clubhouse would be disproportionate to the requirements of a nine-hole golf course. The proposal would therefore represent an over-intensification in the use of the site to the detriment of local residents and the Metropolitan Green Belt.
2. The car parking facilities necessary to meet the needs of this size of clubhouse would cause demonstrable visual harm and aural detriment to the amenities of local residents and the Metropolitan Green Belt in general.

Dated 8th September 1992

Signed

Director of Planning and Heritage



JK

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D.C.4

Ref No. 5/94/0314

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT

Mr S Rogers
Templars Building Surveyors
Manor House
21 High Street
Baldock
Herts

APPLICANT

Mr T Cleary
Colney Heath Farm
Coursers Road
Colney Heath
Nr St Albans
Herts

Construction of clubhouse, new access and parking

Colney Heath Farm, Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act 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 21st February 1994 and received with sufficient particulars on 3rd March 1994 and shown on the plan(s) attached.

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

1. By reason of its size and siting the proposed clubhouse would result in a clutter of ancillary buildings and have a detrimental effect upon the character, integrity and setting of the existing Grade II Listed Building at Colney Heath Farm. The proposal would conflict with the provisions of Policy 47 of the St Albans District Plan 1985 and Policy 86 of the St Albans District Plan Review.
2. The facilities proposed for the clubhouse would be disproportionate to the requirement of a nine hole golf course. The proposal would therefore represent an over intensification of the use of the site to the detriment of local residents and the Metropolitan Green Belt.

Dated 12th April 1994

Signed

Director of Planning and Heritage

TK



The Planning Inspectorate

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

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0272-878927
Switchboard 0272-878000
Fax No 0272-878769
GTN 1374-

leg

Mr S J Rogers ARICS
Templars Building Surveyors Ltd
Manor House
21 High Street
BALDOCK
Hertfordshire
SG7 6AZ

Your Ref: T/071/SJR
Our Ref: T/APP/B1930/A/94/241885/P7

Date: - 2 FEB 1995

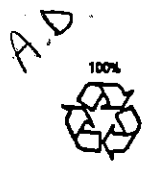
Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR T CLEARY
APPLICATION NO: 5/94/0314

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Council of the City and District of St Albans to refuse planning permission for the construction of a golf clubhouse, new access and parking in association with the use of the land as a golf course at Colney Heath Farm, Coursers Road, Colney Heath, Hertfordshire. I conducted a hearing into the appeal on 5 January 1995. At the hearing applications were made by Mr T Cleary and by the Council for an award of costs against each other. These 2 applications are the subject of separate letters.

2. At the outset, I understand that a 9-hole golf course at Colney Heath Farm was allowed on appeal in March 1992 (T/APP/B1930/A/90/173308). At the same time an appeal for an associated clubhouse, new access, car park and ancillary work was dismissed, mainly due to the unsatisfactory design and poor siting of the building, which would detract from the setting of Colney Heath Farmhouse (T/APP/B1930/A/91/180421). This appeal relates solely to an amended clubhouse design and the provision of ancillary facilities in connection with the approved golf course scheme. While I intend to deal with this application on that basis, I am also aware that some 6.01 hectares of the 18.5 hectares of agricultural land allocated for the golf course have recently been sold to an adjoining owner and that there is now little prospect of the permission being implemented in the approved form.

3. The appeal site is approximately 0.3 hectares in area and is located on the south side of Tollgate Road, close to its junction with Coursers Road, Roestock Road and High Street. It is within the Metropolitan Green Belt and is an area of relatively flat grazing land. To the west is Colney Heath



Farmhouse, a Grade II listed building which has recently been restored and extended and a large detached agricultural building constructed of painted blockwork under a corrugated sheet roof is located to the north-west. Open agricultural land, part of which is earmarked for the proposed golf course, lies to the south and to the north-east, on the opposite side of Tollgate Road, is an area of mixed housing.

4. From the evidence presented at the hearing, in writing and from my inspection of the site and its surroundings, I have formed the view that the principal issues in this case are firstly, whether the proposal is an appropriate form of development in the Green Belt and, if not, whether there are any very special circumstances which justify it being allowed as an exception to the general presumption against inappropriate development; and secondly, the effect on the setting of Colney Heath Farmhouse.

5. The development plan for the area is the approved Hertfordshire County Structure Plan and the adopted St Albans Local Plan Review, although I note that at the time that the Council's decision was made, the St Albans District Plan 1985 was the adopted document. All these plans contain a Policy 1 which, in each case, largely reflects the guidance given in Planning Policy Guidance Note 2 (PPG2) and seeks to severely restrict development in the Metropolitan Green Belt. Allowance is made within these policies for small scale facilities in connection with participatory sport and recreation and, in principle, both parties accept that the construction of a clubhouse serving an approved golf course is an acceptable form of development.

6. In this case however, a significant part of the land which was included in the site for the approved 9-hole golf course has recently been sold and is now out of your client's control. Although the existing planning permission runs with the land, you accepted that the golf course could not be constructed as approved and suggested that a Par 3 Course or an Academy Course of some 5 holes would have to be considered in view of the area of land now available. In this event, both parties agreed that a further planning application would be required and you confirmed that the level of facilities needed by the users of either these smaller courses would be less than that required for the course approved in March 1992.

7. National policy guidance contained in PPG2 states in paragraph 12 that there is a general presumption against inappropriate development in the Green Belt. Having regard to the repercussions I have identified which have resulted from the sale of part of the approved golf course land, I do not consider that the appeal proposals can be construed to fall within any of the appropriate forms of development listed in paragraph 13 as you maintain. Similarly, the proposal would not be in accordance with Policy 1 of both the approved Hertfordshire County Structure Plan and the adopted St Albans Local Plan Review.

8. Notwithstanding the need for a further application to be made if a golf course is to be pursued on the reduced site, I have considered whether the extant planning permission constitutes very special circumstances. While I agree that it may be possible to design an alternative course on the remaining farmland which would be acceptable in Green Belt terms, the plans before me relate to the approved site and are unlikely to be appropriate for either of the 2 possible alternative golf course designs which you suggested.

9. I heard that there are no generally accepted space standards for golf clubhouses. However, from the representations made I am not convinced that the proposed floor area, particularly that planned for the lounge and bar, is commensurate with the needs of the users of the permitted 9-hole golf course and could be significantly reduced. Furthermore, the substantial reduction in the area of land available for the course would exacerbate the situation and, if approved, the current proposal could lead to a clubhouse significantly in excess of the small scale facilities normally considered appropriate for a Green Belt location. In any event to permit the development in the absence of a planning permission for a golf course which is fully capable of implementation would be irresponsible. I therefore conclude on this issue that there are no very special circumstances to override the general presumption against inappropriate development in the Green Belt.

10. Turning to the second issue, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be paid to the desirability of preserving a listed building or its setting. I note that this general duty is reflected in Policy 86 of the St Albans Local Plan Review.

11. Colney Heath Farmhouse has been substantially extended on its south-east side with the addition of a 2-storey wing and a timber conservatory. It is part of a group of buildings which, along with the adjoining fields, form part of its setting. Unlike the previous appeal scheme, the current proposal is shown to have a steeply pitched roof covered in plain tiles. This traditional aspect of the design would, in principle, relate sympathetically to the adjoining complex of buildings. It would also be of height so as to partially screen the adjacent blockwork building, a structure which currently serves to undermine the quality of the setting of the farmhouse.

12. The Council's main concern relates to views of the farmhouse from Tollgate Road, which they maintain would be largely obscured by the siting and scale of the clubhouse. It was agreed at the hearing and confirmed on site that, due to the topography of the surrounding land, the proposed building would be widely visible. I am also aware that views of the listed building from Tollgate Road would be significantly reduced. Notwithstanding the proposed landscaping screen to

the south-east of the listed building complex, I am of the opinion that the scale of the proposed building would result in it being a dominant element within this rural location. Despite being of a more traditional design than that previously proposed, I consider that the building would have an overbearing effect on the farmhouse group and further erode the setting of the listed building, contrary to the aims and objectives of Local Plan Policy 86.

13. A number of local residents have expressed concern at the possible increase in traffic in the area, although I note that no objections have been raised by the Highway Authority. I heard that the current congestion in Tollgate Road occurs during the 2 daily peaks and I therefore consider it unlikely that the golf course as proposed would lead to significant highway problems.

14. I have taken into account all other matters raised at the hearing and in writing, including the extensive negotiations which you maintain have taken place with the Council over a 4 year period, but find nothing of such weight as to override the conclusions which have led to my decision.

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

Yours faithfully



MALCOLM J LEWIS Dipl Arch(Dist) RIBA
Inspector

APPEARANCES

FOR THE APPELLANT

Mr S J Rogers ARICS - Templars Building
Surveyors Ltd
Manor House
21 High Street
Baldock
Hertfordshire

FOR THE LOCAL PLANNING AUTHORITY

Mr T Rea MRTPI BA(Hons)Tp - Planning Officer
Council of the City and
District of St Albans

INTERESTED PERSONS

Mrs S Defoe - Planning Collator Officer
Colney Heath Parish
Council
24 Franklin Close
Colney Heath
Hertfordshire

Mrs Z Sinclair - Tollgate Farm
Tollgate Road
Colney Heath
Hertfordshire

DOCUMENTS

Document 1 - List of persons present at the hearing
Document 2 - Letter of notification of the hearing
and circulation list
Document 3(i-vi) - 6 letters in response to 2 above

PLANS

Plan A - Location plan 1:5000
Plan B - Site plan, floor plan and elevations T071/11
1:100 1:500



The Planning Inspectorate

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

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0272-878927
Switchboard 0272-878000
Fax No 0272-878769
GTN 1374

Mr S J Rogers ARICS
Templars Building Surveyors Ltd
Manor House
21 High Street
BALDOCK
Hertfordshire
SG7 6AZ

Your Ref: T/071/SJR
Our Ref: T/APP/B1930/A/94/241885/P7

Date: 2 FEB 1995

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 322 AND
SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY MR T CLEARY
APPLICATION FOR COSTS BY MR T CLEARY

1. I refer to your application for an award of costs against the Council of the City and District of St Albans which was made at the hearing held at the Civic Centre, St Peters Street, St Albans on 5 January 1995. The hearing was in connection with an appeal by Mr T Cleary against a refusal of planning permission for the construction of a golf clubhouse, new access and parking in association with the use of the land as a golf course at Colney Heath Farm, Coursers Road, Colney Heath, Hertfordshire. A copy of my appeal decision letter is enclosed.

2. In support of your application, you maintained that the Council had not complied with the procedural rules. This had resulted in the Local Planning Authority having the benefit of the appellant's statement for some 5 weeks before their own was completed. You also argued that the Council had been capricious in the handling of the various applications for the golf clubhouse. Different reasons for refusal had been advanced for each of the 3 schemes, a fact which you regarded as an inconsistent application of policy.

3. In response, the Council of the City and District of St Albans accepted that the exchange of statements had been delayed, but pointed out that this had been entirely due to the need to fully establish the ownership of the land on which the approved golf course would be constructed. The statement was finally sent on the 12 December 1994, giving adequate time for the appellant to consider the contents prior to the hearing. In relation to the 3 schemes, the Council maintained that each application had been considered on its merits and that the reasons for refusal reflected the differing nature of the proposals in each case.

100%



RECYCLED PAPER

4. The application for costs falls to be determined in accordance with the advice contained in Circular 8/93 and all the relevant circumstances of the appeal, irrespective of its outcome, and costs may only be awarded against a party who has behaved unreasonably.

5. While I do not condone the late submission of the Council's statement of case, I am satisfied that this action can largely be vindicated by the delay in fully establishing the ownership of the land on which the golf course would be constructed. Under these circumstances and in the knowledge that the statement was received well in advance of the hearing, I am not satisfied that the failure to comply with the code of practice for hearings amounted to unreasonable behaviour which would have prejudiced your client's case.

6. Having examined the reasons for refusal of the various proposals and in particular the current application, I do not find them imprecise or irrelevant. On the contrary, I consider that they reflect the Council's concerns in each of the 3 specific cases. In this appeal, the reasons for refusal have been well supported by substantial evidence and by reference to policies in the development plan. I therefore conclude that your application for an award of costs is not justified.

FORMAL DECISION

7. For the above reasons, and in exercise of the powers transferred to me, I hereby refuse the application by Mr T Cleary for an award of costs against the Council of the City and District of St Albans.

Yours faithfully



MALCOLM J LEWIS Dipl Arch(Dist) RIBA
Inspector

ENC



The Planning Inspectorate

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

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0272-878927
Switchboard 0272-878000
Fax No 0272-878769
GTN 1374-

The Solicitor to the Council
Council of the City and
District of St Albans
District council Offices
Civic Centre
St Peters Street
ST ALBANS
Hertfordshire AL1 3JE

Your Ref:
P/APP/1157/SL
Our Ref:
T/APP/B1930/A/94/241885/P7

Date: - 2 FEB 1995

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 322 AND
SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY MR T CLEARY
APPLICATION FOR COSTS BY COUNCIL OF THE CITY AND DISTRICT OF
ST ALBANS

1. I refer to your application for an award of costs against Mr T Cleary, which was made at the hearing held at the Civic Centre, St Peters Street, St Albans on 5 January 1995. The hearing was in connection with an appeal by Mr T Cleary against a refusal of planning permission for the construction of a golf clubhouse, new access and parking in association with the use of the land as a golf course at Colney Heath Farm, Coursers Road, Colney Heath, Hertfordshire. A copy of my appeal decision letter is enclosed.

2. In support of your application, you maintained that the appellant had pursued an appeal which, due to the sale of part of the land on which permission had been granted for the proposed golf course, had no reasonable prospect of success. You pointed out that it was clear from policies in the development plan and from the guidance contained within Planning Policy Guidance Note 2 (PPG2) that, in the absence of planning permission for a golf course which has a reasonable chance of being implemented, the construction of a clubhouse within the Green Belt is an inappropriate form of development. The Council had drawn the appellant's attention to these facts in adequate time for the appeal to be withdrawn and for the possibility of an application for costs to be avoided.

3. In response, the point was made on behalf of the appellant that planning permission runs with the land and not with its ownership. In this case, notwithstanding the sale of part of the land, the construction of a smaller golf course would still be possible. The proposal is a small scale facility for users of the course and one which would accord



with development plan policies. It was also argued that the appeal had been lodged prior to the land being sold and, if withdrawn at that stage, the appellant could have been liable for costs for failing to pursue the appeal.

4. The application for costs falls to be determined in accordance with the advice contained in Circular 8/93 and all the relevant circumstances of the appeal, irrespective of its outcome, and costs may only be awarded against a party who has behaved unreasonably.

5. I consider that following the sale of some 6.01 hectares of the land allocated for the golf course to an adjoining owner, the appellant must have been aware that there was little prospect of the extant planning permission being implemented in the approved form. It was confirmed at the hearing that, due to the disposal of this significant area of land, the course could not be constructed as approved and that a revised planning application would be required for any alternative golfing proposals. It follows therefore that the clubhouse, the subject of this appeal, must be considered inappropriate development in the Green Belt, as the principle of such a building can only be acceptable in so far as it is ancillary to a golf course. Under these circumstances, I consider that it must have been obvious from the guidance contained in PPG2 and from policies of the development plan relating to Green Belt matters, that the appeal had no reasonable prospect of success.

6. I note that the sale of this land took place less than a month after the date of the appeal documentation and prior to the appellant's agreement to the hearing procedure. Under these circumstances I see no reason why the appeal could not have been withdrawn without incurring an application for costs. Having regard to all these matters, I conclude that your application for an award of costs is justified.

FORMAL DECISION

7. Accordingly in exercise of my powers under Section 250(5) of the Local Government Act 1972 and section 322 and paragraphs 6(4) and 6(5) of Schedule 6 to the Town and Country Planning Act 1990, and all other enabling powers, I HEREBY ORDER that Mr T Cleary shall pay to the Council of the City and District of St Albans the costs of the proceedings of this hearing, such costs to be taxed in default of agreement as to the amount thereof. The subject of the proceedings was an appeal under Section 78 of the Act of 1990 against a refusal of planning permission by Mr T Cleary for the construction of a golf clubhouse, new access and parking in association with the use of the land as a golf course at Colney Heath Farm, Coursers Road, Colney Heath, Hertfordshire.

8. You are now invited to submit to Mr T Cleary, to whom a copy of this letter has been sent, details of those costs with a view to reaching agreement as to the amount thereof.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Malcolm J Lewis'.

MALCOLM J LEWIS Dipl Arch(Dist) RIBA
Inspector

ENC

The Planning Inspectorate

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

AWARD OF APPEAL COSTS:

LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)

HOW TO APPLY FOR ADJUDICATION WHEN THE AMOUNT OF AN AWARD OF COSTS IS DISPUTED.

1. If parties cannot reach agreement on the amount of costs to be recovered, either party can refer the disputed costs to a Taxing Officer or Master of the Supreme Court Taxing Office for determination. This process is called taxation.
2. Before any disputed costs can be referred to taxation the costs award must be converted into an order of the High Court.
3. No interest can be claimed on the costs unless and until a High Court order has been made, and interest will only run from the date of such order.
4. Application for taxation is in two stages. The first, described in paragraph 5 below, is to apply to have the costs award made an order of the High Court. The second stage described in paragraph 6 below, is to apply to commence taxation proceedings.
5. The procedure for applying to have the costs award made an order of the High Court, is as follows:-
 - (a) Write to the Head Clerk, Crown Office, Royal Courts of Justice, Strand, London WC2A 2LL, referring to section 250(5) of the Local Government Act 1972, and enclosing the original of the order of the Secretary of State, or his Inspector, awarding costs. It is no longer necessary to certify a failure to agree costs for the costs award to be made an order of the High Court and establish the right to interest. A prepaid return envelope should be enclosed.
 - (b) an order making the costs award an order of the High Court will be then sent to you.

6. Once the costs award is made an order of the High Court, proceedings for taxation must be begun within 3 months. The procedure for commencing taxation proceedings is as follows:-

(a) Take or send the original of the High Court order, together with a certified true copy of that order, to the Chief Clerk, Supreme Court Taxing Office, Cliffords Inn, Fetter Lane, London EC4A 1DQ, together with a bill detailing the costs claimed and any supporting papers.

(b) The original of the High Court order will be returned together with the name of the Taxing Officer or Master who will deal with the case.

7. The Taxing Officer or Master may disallow costs and/or interest on such costs in the event of any delay in starting or conducting the taxation.

8. This note is for general guidance only. If you are in any doubt about how to proceed in a particular case, you should seek appropriate professional advice.

Footnote

The procedure for taxation is governed by Order 62 of the Rules of the Supreme Court (as contained in the Schedule to the Rules of the Supreme Court (Amendment) 1986 (Statutory Instrument 1986/632 (L2)) - available from HMSO Bookshops).

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D.C.4

Ref No. 5/94/1537

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Templars Buuilding Surveyors
Ltd
Manor House
21 High Street
BALDOCK
Herts SG7 6AZ

APPLICANT
Mr A J Cleary
Colney Heath Farm
Coursers Road
COLNEY HEATH

Use of land for car boot sales on 30 Sundays per year

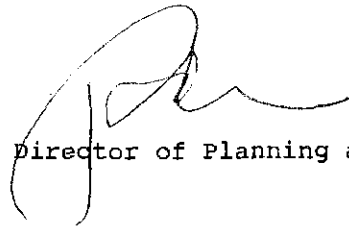
Colney Heath Farm, Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act 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 30th September 1994 and received with sufficient particulars on 11th October 1994 and shown on the plan(s) attached.

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

1. The site is within an area described in the approved County Structure Plan as Metropolitan Green Belt, the precise boundaries of which have been defined in the St Albans District Plan 1985 and District Plan Review 1991. Within the Green Belt permission will not be given except in very special circumstances for development for purposes other than that required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation, or other uses appropriate to a rural area. The proposed development cannot be justified in terms of the purposes specified and no exceptional circumstances are apparent in this case.
2. The proposed use, by reason of its inappropriate location within the Metropolitan Green Belt, would adversely affect the rural character and appearance of the area.
3. The proposed use would be likely to result in activities generating unacceptable levels of noise and disturbance and general activity detrimental to the residential amenity of adjoining occupiers.

Dated 29th November 1994

 signed
Director of Planning and Heritage

SEE ATTACHED SHEET FOR NOTES

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Ref No. 5/96/0521

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT

Templars Building Surveyors
Limited
Manor House
21 High Street
Baldock
Herts

APPLICANT

Duchess Developments Limited
Park Avenue North
Willesden Green
London
NW2

Use for 14 car boot sales between
May 1996 and May 1997

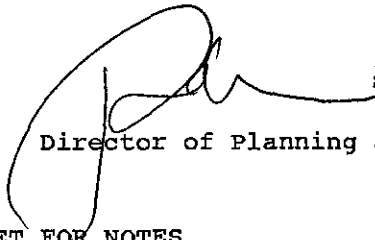
Colney Heath Farm, Coursers Road, Colney Heath, St Albans

In pursuance of their powers under the above-mentioned Act 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 1st April 1996 and received with sufficient particulars on 16th April 1996 and shown on the plan(s) attached.

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

1. The site is within an area described in the approved County Structure Plan as Metropolitan Green Belt, the precise boundaries of which have been defined in the District Local Plan Review 1994. Within the Green Belt permission will not be given except in very special circumstances for development for purposes other than that required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation, or other uses appropriate to a rural area. The proposed development cannot be justified in terms of the purposes specified and no exceptional circumstances are apparent in this case.
2. The proposed use, by reason of its location within the Metropolitan Green Belt, would adversely affect the rural character and appearance of the area and would be likely to result in activities generating unacceptable levels of noise and disturbance and general activity detrimental to the residential amenity of adjoining occupiers.
3. The proposed access is sub-standard in terms of width and visibility and is likely to result in conditions detrimental to highway safety. The proposal would be contrary to Policy 34 of the St Albans District Plan Review.

Dated 4th June 1996

 Signed
Director of Planning and Heritage

SEE ATTACHED SHEET FOR NOTES

RL

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.4

Ref No. 5/96/1554

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT

Mr David Barnard
289 Green Lanes
London
N13 4XS

APPLICANT

R Small
258 Whitchurch Lane
Edgeware

Stable block and vehicular crossover
and access road

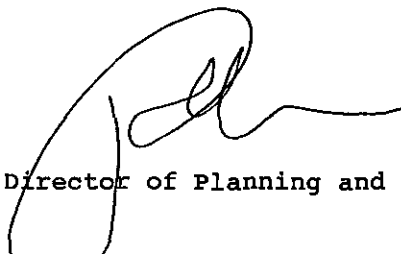
Land r/o Colney Heath Farm, Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act 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 22nd August 1996 and received with sufficient particulars on 5th October 1996 and shown on the plan(s) attached.

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

1. The proposed development lies within the area of land liable to flood as shown on maps held by the Environment Agency. The development will be at direct risk of flooding, and will increase the risk of flooding elsewhere. (The site is recorded to have flooded as recently as 1987).
2. The proposals include development in close proximity to the River Colne, This will prejudice the flood defence interests and environmental obligations of the Environment Agency, and restrict necessary access to the watercourse for the Environment Agency to carry out its functions.

Dated 19th November 1996

 Signed
Director of Planning and Heritage

SEE ATTACHED SHEET FOR NOTES

INFORMATIVE

THIS MATTER IS ADVISORY AND DOES NOT FORM PART OF THE FORMAL
DECISION

A wayleave from Colney Heath Parish Council would be required to provide access across common land.

Any future application should delete windows.

The public footpath should not be obstructed.

The access should be of soft material.

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.4

Ref No. 5/96/0787

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Templars Building Surveyors
Ltd
22 High Street
Baldock
Herts
SG7 6AX

APPLICANT
Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts

Erection of stable

Land to south of Colney Heath Farm, Colney Heath, St Albans

In pursuance of their powers under the above-mentioned Act 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 22nd May 1996 and received with sufficient particulars on 30th May 1996 and shown on the plan(s) attached.

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

1. By reason of its size and siting and in particular its proximity close to the boundary of No 42 Tollgate Road the proposed development would be likely to have an overbearing impact on the occupiers of that property to the detriment of their amenity and to the amenity of the area in general. The proposal would conflict with the provisions of policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

Dated 22nd July 1996

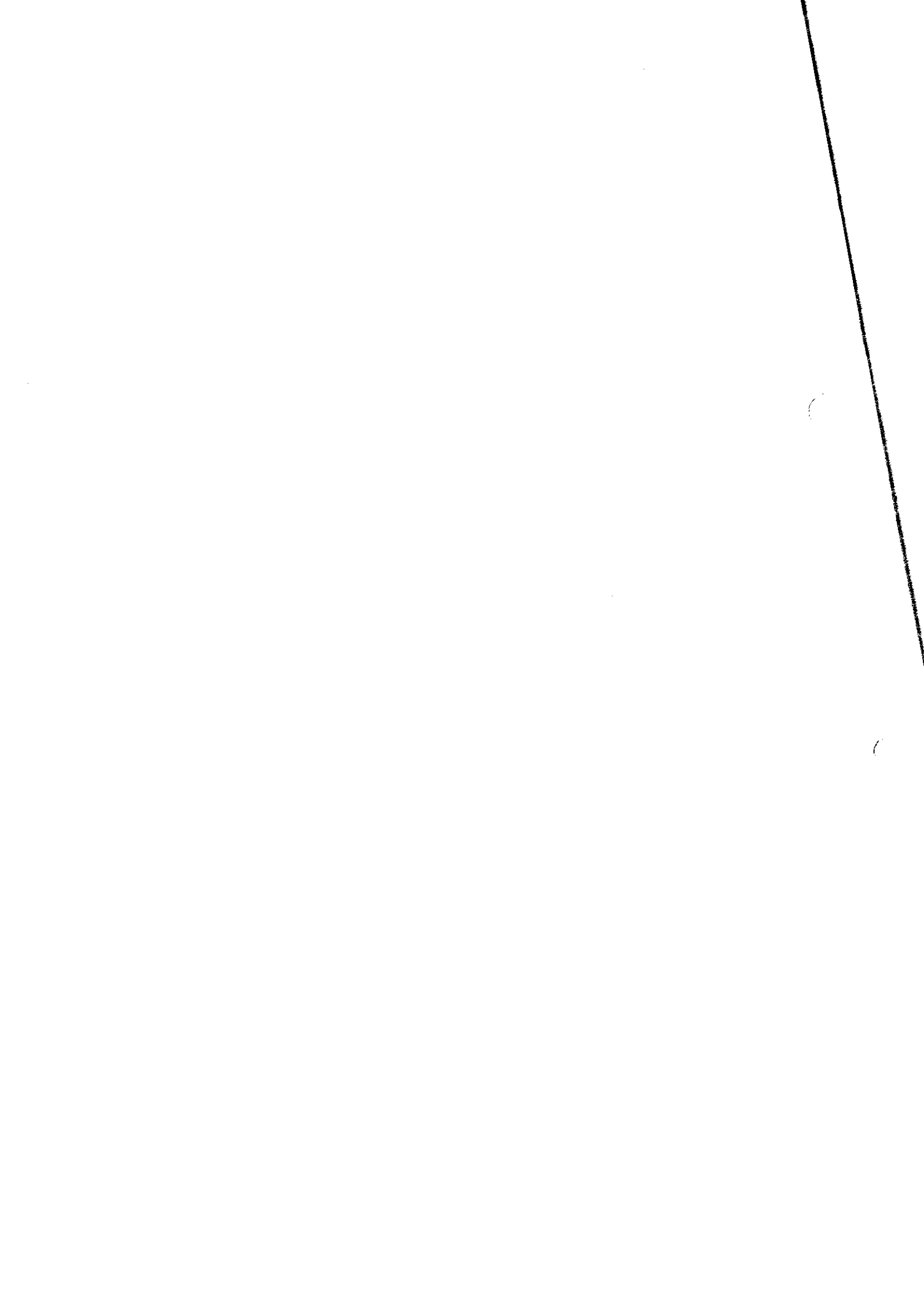


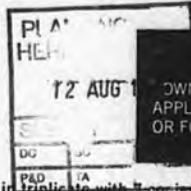
Signed

A

Director of Planning and Heritage

SEE ATTACHED SHEET FOR NOTES





DW14 & COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION
OR FOR APPROVAL OF RESERVED MATTERS

This form should be submitted in triplicate with 7 copies of the plans (see notes 2 & 3 of the "Notes for the Guidance of Applicants") and the appropriate Article 12A certificate.

I/We hereby apply to St Albans District Council for planning permission/approval of reserved matters in respect of the development specified in this application and the plans accompanying it.

Signed: [Redacted] Date: 9/8/96

On behalf of: Mr J Clark (if acting as agent)

PART I - GENERAL PARTICULARS to be completed in every case

1 APPLICANT (Block letters please) AGENT (if any to whom all correspondence will be sent)
Surname: CLARKE Name: TEMPLARS BUILDING SURVEYORS LIMITED
Other Names: MR J Address: 22 HIGH STREET, BALDOCK,
Address: THE WHITE BARN, HERTS SG7 6AX,
COLNEY HEATH, ST ALBANS, HERTS.
Tel No: 01462 490350

2 For what are you seeking permission or approval? Erection of stable building for accommodating horses with associated grooming and storage facilities.
(Please give a full description of the proposal and purposes for which the land and/or buildings are to be used. If your proposal involves residential development please specify the number and type(s) of residential unit(s))

3 Address or location of the land or buildings involved in the application.
LAND TO SOUTH OF COLNEY HEATH FARM, COLNEY HEATH.

4 ANSWER THIS QUESTION YES OR NO YES/NO
Is the application accompanied by a fee? If YES, state amount
(See note 4 of the "Notes for Guidance of Applicants" and the schedule of current fees) If NO, indicate your reason for not doing so
Resubmission

5 What is the area of the whole of the site involved in the application?
.....sq. metres or 10.8 hectares

6 ANSWER THIS QUESTION YES OR NO YES/NO
Does the applicant own or control any adjoining land? If yes, identify by colouring blue on the site plans.

7 a) What is the applicant's interest in the land or building(s)? e.g. owner, prospective purchaser, weekly tenant, lessee etc. a)...OWNER.....
b) When was that interest obtained? b) MAY 1995

96/1240

c) If the applicant is a lessee, how many years of the lease remain? c).....N/A.....

8 ANSWER THIS QUESTION YES OR NO YES/NO
Does your application involve a change of use? If YES, go straight to question 12. If NO, please answer all of the following questions.

9 ANSWER THIS QUESTION YES OR NO YES/NO
Is the application one for the approval of matters reserved by an earlier outline planning permission? If YES, indicate the date and planning reference of the outline permission.
Date:.....N/A.....Ref No:5/.....

10 ANSWER THIS QUESTION YES OR NO YES/NO
Does this application seek outline planning permission only? If NO, all of the details 1-5 below must be included for the application to be accepted.

11 Please indicate which of the following details are included in this application and which are not.
1 Siting of the building(s) included/~~not included~~
2 Design included/~~not included~~
3 External appearance (including materials) included/~~not included~~
4 Means of access included/~~not included~~
5 Landscaping (N.B. includes walls and fences - See Note 1 of the "Notes for the Guidance of Applicants" for definition) included/~~not included~~

12 ANSWER THIS QUESTION YES OR NO YES/NO
Is your application one for the renewal of a permission previously granted for a temporary period? If YES, indicate the date and reference of the previous permission.
Date:.....Ref No:5/.....

13 ANSWER THIS QUESTION YES OR NO YES/NO
Are you applying for planning permission to retain a building or to continue a use for which planning permission has not been granted, or to do either of these things without complying with a condition imposed on a previous planning permission? If YES, indicate the date number and condition of any relevant previous permission.
Date:.....Ref No:5/.....
Condition No:.....

14 a) For what purpose(s) are the land and/or building(s) now used? a) Land used for horse grazing. No stable buildings exist at present.
(Give details if more than one use and if in residential use, state number of units).
b) What is the total floor area of the existing building(s)? b).....N/A.....
c) If land/building(s) are vacant, what were the last know uses and when did those uses cease? c).....N/A.....

15 Do the proposals involve: YES OR NO Delete as appropriate
a) New buildings? YES/NO If YES state floorspace proposed
(see Note 2 of Notes for the Guidance of Applicants) 150 metres²

b) Change of use of land? **YES/NO**
 If YES, state area involvedmetres²

c) Change of use of buildings? **YES/NO**
 If YES, state floorspace involved.....metres²

d) An extension to an existing building **YES/NO**
 If YES, state floorspace of
 1. Existingmetres²
 2. Extension.....metres²

e) Demolition of any existing building or part of a building? **YES/NO**
 state floorspace demolishedmetres²

16 What number of cars can be garaged or parked on the site at present and what total number is proposed in this application?

	Garage	Parking
Existing	NONE	NONE
Proposed Total	NONE	NONE

17 a) How is access to be obtained to the site for: (i) Pedestrians? Via existing gate to Tollgate Road.

(ii) Vehicles? Via existing gate to Tollgate Road.
 b) If by means of an existing access, is that access to be altered in any way? **YES/NO**
 If so, please specify the alterations.

18 How will sewage and rainwater disposal be dealt with?
 Sewage: N/A
 Rainwater: To soakaway.

19 ANSWER THIS QUESTION YES OR NO
 Will any existing trees be felled or lopped or existing hedges removed?
 The following work which is shown on the submitted plan will be involved:
 If any trees/hedges are affected in any way then a tree survey will be required. Is a tree survey enclosed with this application?
YES/NO N/A

20 ANSWER THIS QUESTION YES OR NO
 Will any public right of way be affected (eg. definitive footpath, bridleway)?
 The following work which is shown on the submitted plan will be involved
YES/NO

21 What materials (type and colour) are to be used in the external appearance of walls, windows, roofing and fences?
 Walls: Timber boarding stain finish
 Windows: Timber framed
 Roofing: Green mineralised felt
 Fencing: Post and rail

5 96/1240 3

PART II ADDITIONAL INFORMATION REQUIRED IN RESPECT OF APPLICATIONS FOR INDUSTRIAL, COMMERCIAL, SHOPPING OR OFFICE PROPOSALS

22 a) State name(s) of firm(s) who will occupy the site. If unknown at this time, indicate NOT KNOWN. a).....

b) If a firm is named, is it already established at the site subject of this application? Answer YES or NO. b) YES/NO

c) If NO, give present address and state intentions in respect of the premises to be vacated. c).....

23 Give details of the existing floorspace and of the total proposed floorspace (including any of that which is existing and which is to be retained) in the following uses:

	Existing	Proposed (including retained floorspace)
(a) All floorspace of all buildings on the site a)		
(b) Industrial floorspace b)		
(c) Office floorspace c)		
(d) Retailing floorspace d)		
(e) Storage e)		
(f) Warehousing (see Class BB of The Town and Country Planning (Use Classes) Order 1987 f)		
(g) Remaining floorspace not falling within (a) - (f) g)		

24 In respect of an industrial or commercial premises describe:

a) the process to be carried on, the end product and the type of plant or machinery to be installed. a).....

b) the specific function of the proposed building in relation to the processes in (a). b).....

25 How many people are employed on the site now and what total do you anticipate will be employed if the development proceeds? (Please specify any other activities*).

Existing Male	Existing Female	Total Proposed Male	Total Proposed Female
		Office	
		Industry	
		*	

26 What is the type, volume and proposed means of disposal of any trade effluents and refuse?

27 Will any materials be kept or produced of a toxic, flammable, explosive or otherwise potentially hazardous nature. **YES/NO** If YES, state materials and approximate quantities.

4.....



TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING GENERAL
DEVELOPMENT ORDER 1988

CERTIFICATE A UNDER ARTICLE 12A

I certify that:

1. On the day 21 days before the date of the accompanying application nobody except the applicant, was the owner* of any part of the land to which the application relates.
2. None of the land to which the application relates is, or is part of, an agricultural holding.

Signed: [redacted] Date: 9/8/96

*On behalf of: Mr J Clarke

CERTIFICATE B UNDER ARTICLE 12A

I certify that:

1. *I have/The applicant has given the required notice to everyone else who, on the day 21 days before the date of the accompanying application, was the owner* of any part of the land to which the application relates.

Owner's name:

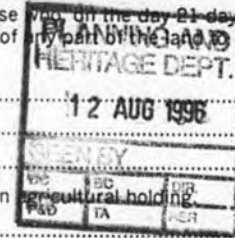
Address at which notice was served:

Date on which notice was served:

2. None of the land to which the application relates is, or is part of, an agricultural holding.

Signed: Date:

*On behalf of:



**TOWN & COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION FOR SERVICE ON INDIVIDUALS
NOTICE UNDER ARTICLE 12A**

Proposed development at:

(insert address or location of the proposed development)

I give notice that:

(insert applicant's name)

is applying to the St Albans City and District Council for planning permission to:

(insert description of proposed development)

Any owner* of the land who wishes to make representations about this application should write to the Council at the District Council Offices, Civic Centre, St Peters Street, St Albans AL1 3JE

by (insert 21 days after the date of service of the notice).

Signed: Date:

*On behalf of:

Statement of owners' rights

The grant of planning permission does not affect owners' rights to retain or dispose of their property, unless there is some provision to the contrary in an agreement or in a lease.

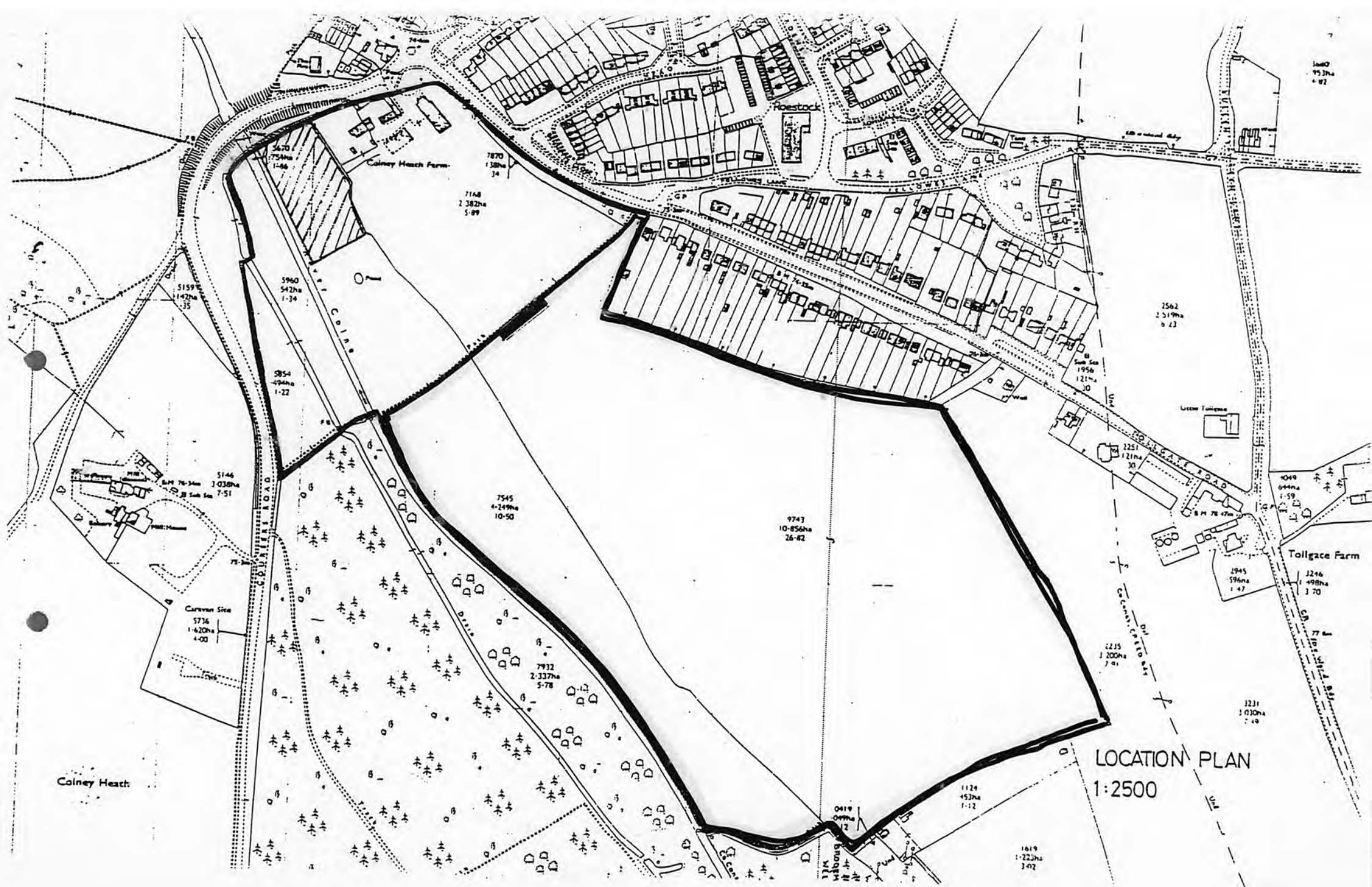
Statement of agricultural tenants' rights

The grant of planning permission for non-agricultural development may affect agricultural tenants' security of tenure.

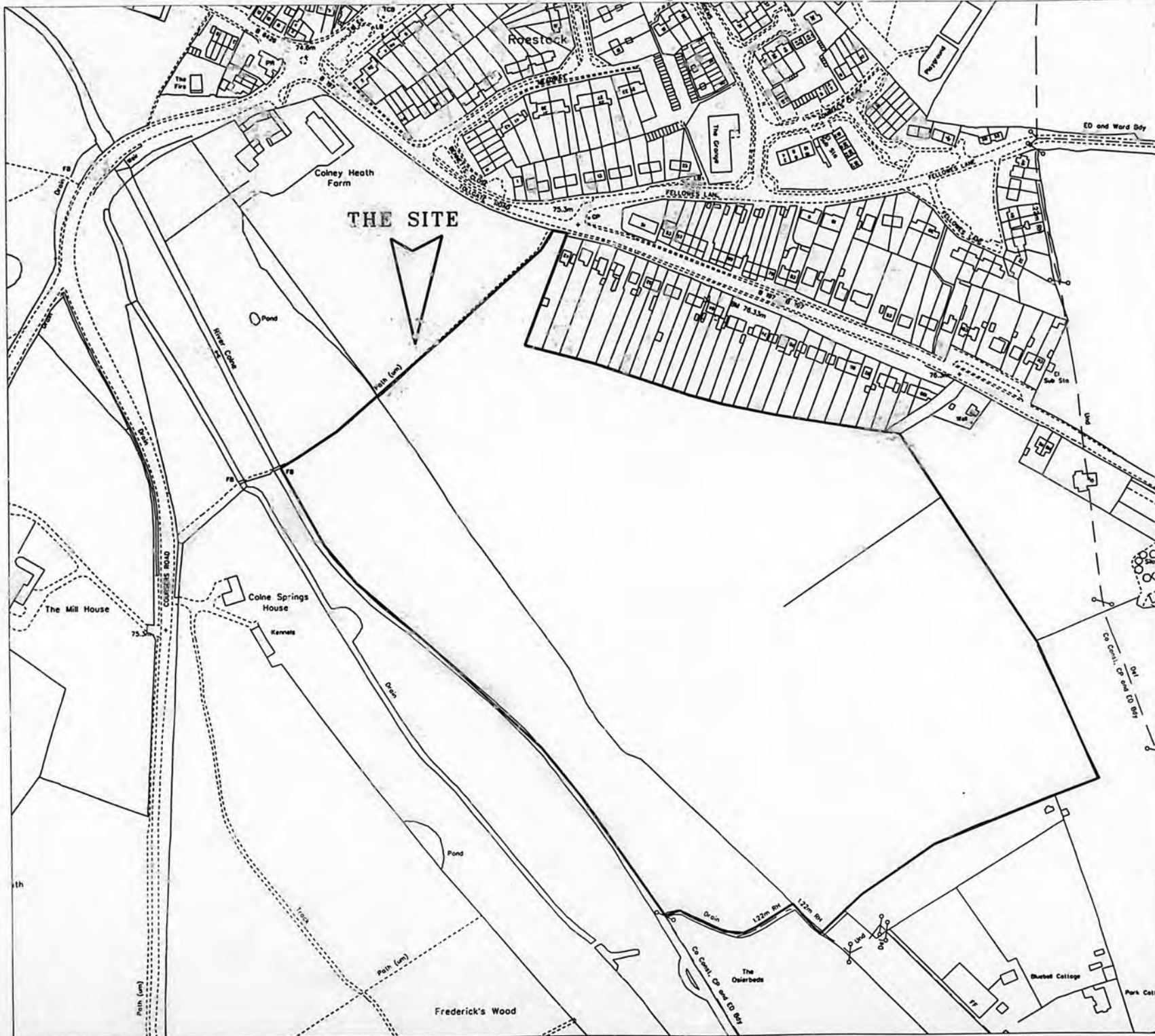
*Delete where appropriate

Owner means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than 7 years, or, in the case of development consisting of the winning or working of minerals, a person entitled to an interest in a mineral in the land (other than oil, gas, gold or silver).

5 96/1240



LOCATION PLAN
1:2500



TITLE

Land Colney Heath

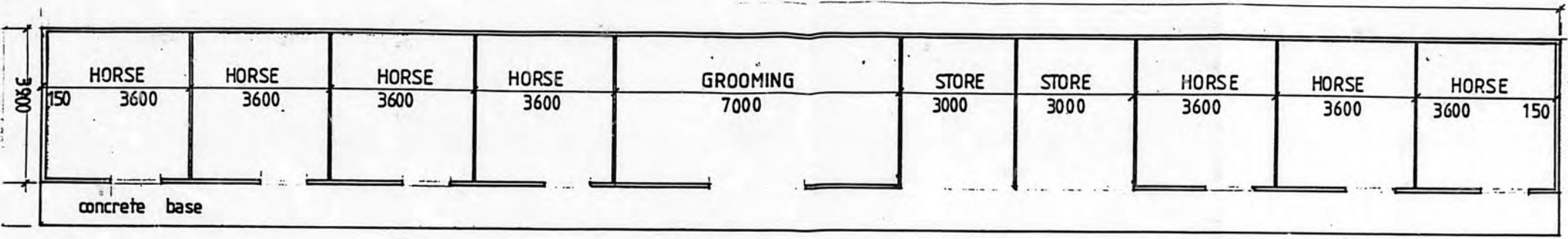
NOTES

5 96/ 1240

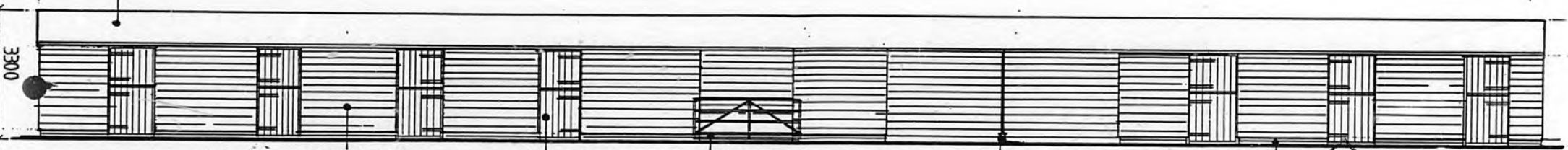
GEOGRAPHIC INFORMATION



DRAWN	CPW
SCALE	1: 2500
DATE	12/08/96
REF No.	
PLAN NO.	
<small>Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright. Unauthorized reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence No. LA 079227</small>	



PLAN
green felt roof



FRONT ELEVATION

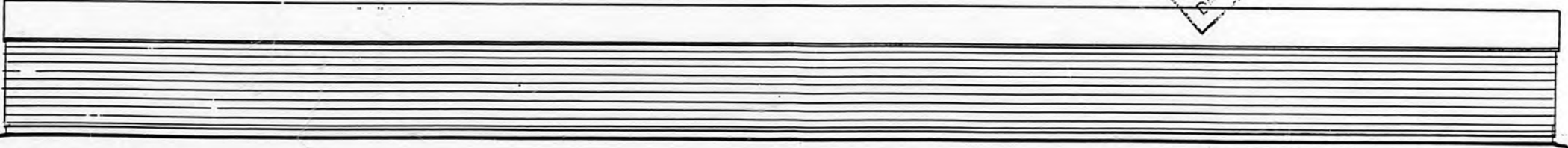
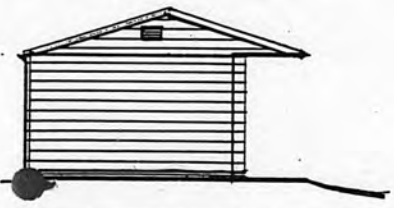
stained timber boarding

stable doors timber boarded

metal gate

timber frame built off 150mm high concrete block wall

SIDE ELEVATIONS



REAR ELEVATIONS

CITY AND DISTRICT OF
ST. ALBANS
TOWN & COUNTRY PLANNING ACT 1990
PLANNING PERMISSION TO CONSTRUCT
BUILT 22/2/24
SJB/PLS

TEMPLARS Building Surveyors Ltd.
CHARTERED BUILDING SURVEYORS
Manor House,
21 High Street,
Baldock,
Herts., SG7 6AZ
Tel (01462) 490350
Fax (01462) 892175



Client
MR J. CLARKE
Project
LAND AT COLNEY HEATH FARM

Title
PROPOSED STABLES BUILDING
Ref: T 800
scale 1:100 drawn SJR date 5/96

3 36/07
CITY AND DISTRICT OF ST. ALBANS
23 MAY 1996



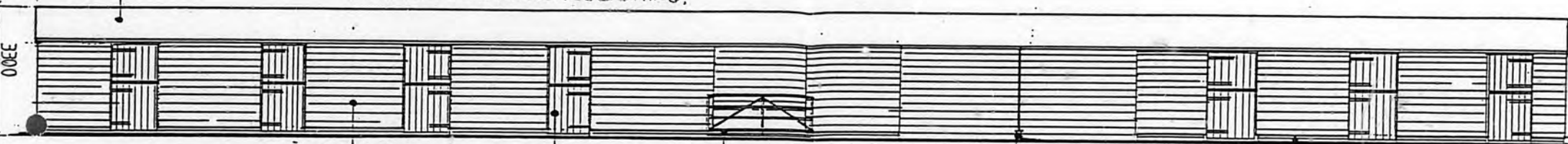
PLAN
green felt roof

KIARGESTER SILAGE TANK
1.9m dia CAPACITY 600 GALLONS
SEALED UNIT, SET IN
CONCRETE.
LID & COVER FOR ACCESS FOR GRIPPING.

CONCRETE SURROUND
TO COVER AT STABLE
FLOOR LEVEL.

DISHED CHANNEL CAST
INTO FLOOR, TO FALL TO
SILAGE TANK.

CONCRETE FLOOR
FLOOR LEVEL = GROUND
LEVEL + 100mm.



FRONT ELEVATION

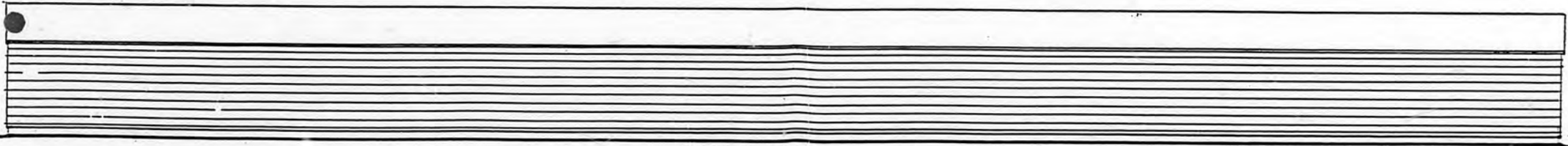
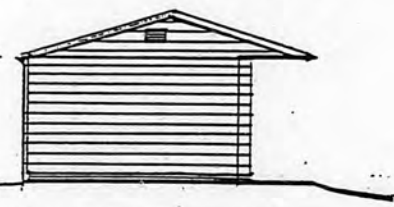
stained timber
boarding

stable doors
timber boarded

metal gate

timber frame built
off 150mm high concrete
block wall

SIDE ELEVATIONS



REAR ELEVATIONS



TEMPLARS Building
Surveyors Ltd.
CHARTERED BUILDING SURVEYORS

Manor House,
21 High Street,
Baldock,
Herts., SG7 6AZ

Tel (01462) 490350
Fax (01462) 892175

Client
MR J. CLARKE

Project
**LAND AT COLNEY HEATH
FARM**

Title
**PROPOSED STABLES
BUILDING**

Ref: T 800

scale 1:100 drawn SJR date 5-96

AMENDMENT A - OCT 96.
KIARGESTER SILAGE TANK SHOWN.

TOWN PLANNING REGISTER SHEET

ADDRESS/LOCATION OF SITE: Land to south of Colney Heath Farm Coursers Road COLNEY HEATH	TOWN PLANNING REF. No: *5/96/1240 SOUTH/34
	DATE OF COMMENCEMENT OF STATUTORY PERIOD: 14.8.96
LOCAL AUTHORITY NAME: ST. ALBANS CITY AND DISTRICT	DATE OF EXPIRY OF STATUTORY PERIOD: 9.10.96
PARISH NAME: COLNEY HEATH	DATE OF DECISION:
DESCRIPTION OF PROPOSED DEVELOPMENT: Erection of stable with associated grooming and storage facilities	DECISION:
	DIRECTIONS Dept. of Env't. County Plan. Auth. County High. Auth.
	DATE OF APPEAL DECISION:
	APPEAL DECISION:
NAME AND ADDRESS OF APPLICANT Mr J Clarke The White Barn, Colney Heath	O.S. SHEET No: 35 14 743
NAME AND ADDRESS OF AGENT Templars Building Surveyors Ltd 22 High Street Baldoek, Herts	NAT. GRID REF: TL2090005460
nil	ROAD CLASS:
	PREVIOUS APPLICATIONS ON SAME SITE: 96.0787

44 Tollgate Road,
Colney Heath
Herts. AL4 0P

5 September, 1996

Director of Planning and Heritage,
District Council Offices,
Civic Centre,
St. Peters Street,
St. Albans,
Herts AL1 3JE

For the attention of Margaret DeMaria

Dear Madam,

Re: Erection of Stables - Land to south of Colney Heath Farm

I refer to your letter of 16th August, 1996 circulated to selected residents in the vicinity of the site of the above application. I write to object to the application.

My objections are based on both planning and environmental considerations.

Planning

The scale of the proposed building and the close proximity to 42 Tollgate Road would appear to intrude onto the amenity of the adjacent premises feel the original objections still stand despite a minor adjustment in the location of this latest application. The access to Tollgate Road has proven to be inadequate and unsafe when it was used for illegal car boot sales. The need for the building is dubious because the cowhide at Colney Heath Farm, converted into a residence (with planning permission?) is suitable for the purpose and in close proximity.

Environmental

The noise, especially in the early mornings, the smells, the rodents and insects generated by the effluent created in the stables will intrude into premises close to the site, which includes my own home, to the detriment of the amenity. The horses cause noise and smells while they are roaming free, I hate to think of the increase if they were confined so close to our houses.

The traffic entering and leaving the site will be cause danger and noise. There is an existing problem of the applicant depositing materials on the roadway, parking on grassed areas and the pavement with total disregard for regulation.

Visually, unless stringent conditions are applied and enforced, the building will not blend into the rural nature of the area.

Conclusion

I ask that the council reject the application to enable more acceptable alternatives to be explored.

Yours sincerely

Lynn Diane Skell



B

Chartered
Building
Surveyors



TEMPLARS
BUILDING SURVEYORS LTD.

Manor House,
21 High Street,
Baldock,
Herts., SG7 6AZ

OUR REF: T/800/SJR/RJD
YOUR REF:

Tel (01462) 490350
Fax (01462) 892175
9 August 1996

The Director of Planning & Heritage
City & District of St Albans
District Council Offices
Civic Centre
St Peters Street
St Albans
Hertfordshire
AL1 3JE

FAO: Mrs De Maria



Dear Sirs

**RE: MR J CLARKE - LAND AT COLNEY HEATH FARM - APPLICATION FOR
ERECTION OF STABLE BUILDING**

Further to our meeting on site on 9th August 1996 regarding the above, I enclose a further application showing the stable block re-sited further from the houses in Tollgate Road.

If you need additional information please contact me.

Your prompt attention would be appreciated as three of the horses are currently 'in foal' and this accommodation is required before the onset of Winter.

From the point of view of drainage, it is proposed to construct a soakaway along the whole of the front of the block to receive run off from washing down. Straw/saw dust bedding will be used to soak up liquid effluent with this and solid matter being cleaned out on a regular basis. This should satisfy the requirements of the Environment Agency.

Yours faithfully
for TEMPLARS BUILDING SURVEYORS LTD


S J ROGERS, F.R.I.C.S.

Enc.

cc: Mr J Clarke

5 96/1240

A 16

COLNEY HEATH PARISH COUNCIL

Caroline Pluck
(Clerk to the Council)
Telephone & Facsimile: (01727) 825314



94 Tollgate Road
Colney Heath
St Albans
Herts
AL4 0PY

23 September 1996

Mr. P. J. Lerner
Director of Planning & Heritage
St. Albans City & District Council
Civic Centre
St. Albans
Herts.

Dear Sir

5/96/1240 Erection of stable with associated grooming for storage facilities at land to south of Colney Heath Farm, Coursers Road.

Colney Heath Parish Council considered the above application at their meeting on 11 September and would like the following **objections** recorded.

Although due to the Inspector's ruling vis-a-vis The Paddocks that stabling is an acceptable use within the Green Belt the Parish Council has concerns over this application:

- 1) The unit is very large and even though it would be of a rural aspect and made of short life materials, it would still make a distinct structure in the rural community.
- 2) The unit should be as far away as possible from the neighbouring residences without affecting or contaminating the water table as referred to by the Environment Agency (formerly N.R.A.)
- 3) The stables should be solely for the benefit of the horses on the land and that livery, as a business, would not be permitted.
- 4) The unit should be screened with some landscaping or hedging.

Yours faithfully



Caroline Pluck
Clerk to the Council

PLANNING AND HERITAGE DEPT.		
24 SEP 1996		
SEARCHED		
DC	DD	DIR.
P&D	VA	NER

Mr. N Nicholls
46 Tollgate Road
Colney Heath
Herts
AL4 0PY

6-9-96

Mr. P.J.Lerner
Director of Planning
St.Albans Council
District Offices
Civic Centre
St.Peters Street
St.Albans
Herts
AL1 3JE



B

Dear Mr. Lerner

**Planning application for stables at Colney Heath Farm
Your Ref NGHBRCON/5/96/1240**

Further to my conversation with your office, it is a shame that you were not able to fax or send any further details of this latest planning application. Unfortunately this time it has been possible for me to take yet further time off work to look at the plans for this latest application. As I am sure you are aware there have been so many applications it is now becoming impossible to continually take time off work to get to the council offices to inspect them. Could I ask, is there a maximum amount of applications that are allowed, or can they just continually put in applications on an ongoing basis?

Also is there any way that a different way of inspecting these applications can be arranged? Maybe an evening viewing or could not the details be sent out to interested parties? This cost could be passed on to the person making the application. If there was extra costs involved, this may deter people making continual, spurious applications.

With regard to this latest application all I can say that unless it has been substantially amended, my objections remain the same as for the last application which were:-

1) Why does the stable block have to be built anywhere near the back of the houses. Could this be a case of "lets put in the worst possible application and we might get something on a re-application"?

2) Obviously having been given no time to see the plans, one can only guess as to their size and proposed use. However what safeguards are there that commercial usage will not be the real reason for the stables erection. Particularly this should be considered as there is planning consent for the golf course but no golf club.

continued....

(2)

- 3) Obviously stables cannot be erected anywhere near the back of residents gardens. The smell and noise associated with stables and their muck heaps would be totally unbearable and without a shadow of doubt, completely unacceptable.
- 4) The entrance to the field does not have good access to Tollgate Road and there have already been numerous occurrences of straw being off loaded from vehicles parked on the road, with resultant mess being spread half way down Tollgate Road.
- 5) There is already a Cow Shed on the site. Could this not be used instead of allowing the erection of a further building?
- 6) If stables really must be erected on the site, why not position them next to the farm house, utilising the entrance to the farm house from Coursers Road. This would seem a far more sensible solution if stables are so essentially needed on the site, would not necessitate the upgrading of the present entrance from Tollgate Road and would overcome objections with regard to smell and noise.

I look forward to hearing from you

Yours Sincerely


N.Nicholls

TOLLGATE FARM,
COLNEY HEATH,
ST. ALBANS, HERTS AL4 0NY
TELEPHONE 0727 822611

A16

October 6th

DC
if this isn't
clear I
suggest you
please refer
write us.

7.10

B

Mr Peter Kenner. 5196/ 1240.

Dear Sir,
I have been informed that another planning application for a block of flats has been made by Mr Clark, 'The White Barn', Colney Heath Farm.

The new siting will make little or no difference to the deleterious effect on the amenity of neighbouring houses.

I will send a fax of my previous letter, dated June 26th, the same objections apply to this second application with the further problem of possible pollution. Do not know if the application indicates any installation of catchment or treatment of dirty water and how to divert from the flats. Previous experience with the N.R.A

TOLLGATE FARM,
COLNEY HEATH,
ST. ALBANS, HERTS AL4 0NY
TELEPHONE 0727 822611

2.

(now absorbed into the Environment Agency) indicates that the installation of an empty tank on the construction of an acceptable filter system and negotiated discharge consents will be necessary - the river bank is a very steep descent away and the topography of the site slopes to the river.

I think these comments may prove helpful.

Yours faithfully,

[Redacted signature]

Attn: Mr Peter Turner

Just 26th

Ref. NHTBRCON 15/96/0787

Dear Sir, The erection of a stable block on land South of Colney Heath Farm. - there are several objections to this proposal as follows:-

1. There are stables and storage barns in existence at Colney Heath Farm next to the White Barn. The previous owner of Colney Heath Farm and the surrounding buildings, the Brooks family, kept horses at home on the premises. It seems unnecessary to allow another set of buildings to be erected at all.
2. The keeping of horses gives rise to manure, smells, flies, odour, straw blowing, mud and dust and noise. A stable block concentrates these problems. Therefore, a stable block would have a deleterious effect on the amenity of houses within 150 yards and considerable effect on the value of those houses.
3. It would be necessary to ~~erect a fence~~ ~~erect a fence~~

TOTAL P.01/06

TOLLGATE FARM,
COLNEY HEATH,ST. ALBANS, HERTS AL4 0NY
TELEPHONE 0727 822611

2. 'Do-it-yourself' livestock (with the attendant traffic, parking requirements and noise) is as a breeding and dealing establishment with even more disadvantage to neighbouring houses.

It is understood that the land indicated may have been sold. There is an advertisement in the newspapers stating that the land has been bought as a small holding and looking for paid help to feed the chickens. Has the land been registered as a small holding? If so, by whom and where?

I am sure you will recall the long and regrettable saga of the establishment of "The Paddocks" private caravan site on the A414. - which, of course, started as a "small holding".

I would suggest that this proposal is yet another attempt to obtain development of the site, especially having regard to the previous

worst breaking fences and escaping to run
along Tollgate Road, Casson Court and the
High Street, an extreme danger to the public.
There are large numbers of diddicos (travellers)
horses being grazed, mostly illegally, all over
this village, which was, formerly, a very
pleasant place and now, sadly, resembles the
slums of Dublin.

To allow an entrepreneur with this
dubious background and potentially destructive
possibilities to establish itself in the middle
of Colney Heath would remove the amenity of
the whole surrounding area.

Yours faithfully,

[Redacted]
(Chairman of Board of Control of East Anglian
National Farmers Union)

TOLLGATE FARM,
COLNEY HEATH,
ST. ALBANS, HERTS AL4 0NY

Attn: Mr Peter Turner

June 26th

Ref. NAFBRCON/96/0787

Proposed, the erection of a stable block on land
South of Colney Heath Farm. There are several
objections to this.

objections to this proposal as follows:-

1. There are stables and storage barns in existence
at Colney Heath Farm next to the White Barn.
The previous owner of Colney Heath Farm and
the surrounding buildings, the Brooks family,
kept horses at home on the premises. It seems
unnecessary to allow another set of buildings to
be erected at all.
2. The keeping of horses gives rise to manure, smells,
flies, rodents, straw blowing, mud and dust and
noise. A stable block concentrates these problems.
Therefore, a stable block would have a deleterious
effect on the amenity of houses within 150 yards
and considerable effect on the value of those houses.
3. It would be necessary to ascertain whether
the proposed stables would be used for livestock.

TOLLGATE FARM,
COLNEY HEATH,
ST. ALBANS, HERTS AL4 0NY
TELEPHONE 0727 822611

Planning history of Colney Heath Farm and 'The White Barn'. bearing in mind the difficulty of ascertaining the true ownerships of the properties.

At the moment, the land is being used to graze a large number of assorted horses, foals and ponies - even a couple of sheep.

This population of horses is constantly changing, the land is over grazed, hedges and trees have been damaged, the land is full of vegetation (a nuisance and pernicious weed) some horses are tethered and others are allowed to breed and deposit manure in the view of the drinking.

On the present evidence the proposed stable block would be part of a horse dealing enterprise, with horses collected and deposited

from many properties all over the area.

TOLLGATE FARM,
COLNEY HEATH,
ST. ALBANS, HERTS AL4 0NY

4.

There have been numerous occasions of horse breaking fences and escaping to the road.



Director of Planning and Heritage

P J LERNER MA DipTP MRTP

THE COUNCIL OF THE CITY AND DISTRICT OF ST ALBANS

Notice in accordance with the Town and Country Planning Act 1990 (Circular 15/92) Development of Local Significance.

Application has been made to the Council for planning permission for

Erection of stable with associated grooming and storage facilities

at Land to South of Colney Heath Farm, Coursers Road, Colney Heath

A copy of the application, together with the accompanying plans/ and other documents / is available for public inspection on Mondays - Fridays during normal office hours, 9.00 - 5.00 (4.30 on Fridays) at the offices of the Director of Planning and Heritage, Civic Centre, St Peters Street, St Albans, telephone St Albans 866100) / and in respect of applications in the North of the District at Harpenden Town Council Offices, Park Hall, Leyton Road Harpenden, between the hours of 10-4 Monday to Friday (telephone no 01582-768278).

Any representations concerning the application should be made in writing to the Director of Planning and Heritage, Civic Centre, St Peters Street, St Albans quoting reference 5/96/1240 not later than 19/09/96 (21 days after publication date).

Date 29th August 1996

Chief Executive Officer





Director of Planning and Heritage

P J LERNER MA DipTP MRTPI

FAX No 01727 845658

The Occupier
42 44 46 5 80 106 tollgate road, 9 11 fellowes lane
ST ALBANS
tollgate farm, colney heath

Our ref:NGHBRCON/5/96/1240
Please Ask For: Margaret DeMaria
Extension: 2345
Date: 16th August 1996

Dear Sir/Madam

Town and Country Planning Act 1990

Land to South of Colney Heath Farm,
Coursers Road, Colney Heath
Erection of stable with associated grooming
and storage facilities

An application has been submitted for permission for the above proposal. I am writing to invite you to visit this office during normal office hours to view the drawings. The office is open to the public Monday - Thursday between 9.00am - 5.00pm Friday between 9.00am - 4.30pm. The Council would welcome any comments or observations you may like to make, whether you are an owner or occupier of your property. Applications in the North of the District can also be inspected at Harpenden Town Council offices, Park Hall, Leyton Road, between the hours of 10.00am - 4.00pm. Any comments you send should be in writing and sent to this address within 21 days from the date of this letter. Please make sure that you quote the reference number of the application in any reply.

If you wish your reply to be acknowledged, please enclose a stamped addressed envelope. If you are not the owner of the property to which this letter was sent, please pass it to the owner as soon as possible.

Please note that your letter will be available for inspection by members of the public, in addition to being disclosed to Members of the Council.

The Council receives many letters about applications every year. For this reason, I cannot promise to answer any questions you raise about the applicant's proposal.

Lastly, I would inform you that the Planning Committees are open to the public who are invited to speak. Further details are contained on the enclosed leaflet.

Yours faithfully

Director of Planning and Heritage



MEMORANDUM

From: Director of Planning and Heritage

To: Director of Technical Services
FAO Footpaths Officer

Case Officer: Margaret DeMaria

Ext. No.: 2345

Planning Application No: CONLET913/5/96/1240 Date: 16th August 1996

Details: Land to South of Colney Heath Farm,
Coursers Road, Colney Heath
Erection of stable with associated grooming
and storage facilities

I enclose a copy of this application. I would appreciate any comments you wish to make within the next 14 days.

Director of Planning and Heritage

Enc:



21/8/96
RE: FOOTPATH NO 33 COLNEY HEATH.

I have noted the details of the above application and can offer no grounds for objection to this proposal on rights of way issues.

I am enclosing a copy of the definitive rights of way map and the adjacent right of way shown. The path that is shown is to the south of the hedge, the new stables are to the south of same hedge.

J. Thomas

Technical Assistant
Highways + Rights of Way

MEMORANDUM

From: Director of Planning and Heritage

To: Head of Engineering Services

Case Officer: Margaret DeMaria

Ext. No.: 2345

Planning Application No: CONLET903/5/96/1240

Date: 16th August 1996

Details: Land to South of Colney Heath Farm, Coursers Road, Colney Heath
Erection of stable with associated grooming and storage facilities

Please may I have your Section's views on the above proposal within the next 14 days. If plans are not attached, they can be inspected in my office. Interim advice will be welcomed.

*Gate + access from Tollgate road is already there.
There are no parking standards to apply to this.
(though I feel there ought to be).*

[Redacted]

27.8.96

RECEIVED
20 AUG 1996

A16

CONSULTATION: PLANNING APPLICATION

From: Development Control Manager

To: Principal Architect

Case Officer: Margaret DeMaria

Ext. No.: 2345

Planning Application No: CONLET901/5/96/1240

Date: 16th August 1996

Details: Land to South of Colney Heath Farm, Coursers Road, Colney Heath
Erection of stable with associated grooming and storage facilities

Please may I have your Section's views on the above proposal as marked below within the next 14 days.

Interim advice will be welcomed.

Landscape

No objections

[Redacted]

20.9.96

RECEIVED
20 AUG 1996



HERTFORDSHIRE ENVIRONMENTAL RECORDS CENTRE

Bury Mead Road, Hitchin, Hertfordshire SG5 1RT
Telephone: 0462 432454 Fax: 0462 433989

HERC is a partner in Hertfordshire Environmental Information Service

Attn Ms M.DeMaria,
St Albans District Council,
District Council Offices,
Civic Centre,
St Peters St.
St Albans, Herts. AL1 3JE

Your Ref: CONLET 906/5/96/1240
Our Ref: Sites 69/002

B

18 September 1996,

Dear Sir,

**Land to South of Colney Heath Farm,
Coursers Road, Colney Heath.
Erection of stable with associated grooming and storage facilities.**

Thank you for sending us the details of this planning application. As you are probably aware the site is marked on the County Alert Maps and was the subject of a Public Enquiry following an application for a golf course in 1993. We therefore have a considerable amount of information available on this site. (We also commented in May this year on an application for use of part of this site for car boot sales, your ref. CONLET906/5/96/0521). However having now seen the precise location of the currently proposed development we are satisfied that the ecological interests of this site should not be compromised.

Yours faithfully,

[Redacted Signature]

Alan R. Outen



Sponsored by:
HERTFORDSHIRE COUNTY COUNCIL, DACORUM BOROUGH COUNCIL, EAST HERTFORDSHIRE DISTRICT COUNCIL,
HERTSMERE BOROUGH COUNCIL, NORTH HERTFORDSHIRE DISTRICT COUNCIL, CITY AND DISTRICT OF ST ALBANS,
THREE RIVERS DISTRICT COUNCIL and WELWYN HATFIELD COUNCIL

Environmentally Friendly Paper





MD
ENVIRONMENT
AGENCY

Our ref: SM/TL20NW/1/B(11646)
Your ref: CONLETO21/5/96/1240
Date: 22 August 1996

Director of Planning & Heritage
City & District of St Albans
Civic Centre
St Peter's Street
ST ALBANS
Herts AL1 3JE


Dear Sir

PROPOSED: ERECTION OF STABLE WITH ASSOCIATED GROOMING AND STORAGE FACILITIES.
LOCATION: LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD, COLNEY HEATH.
APPLICANT: TEMPLARS BUILDING SURVEYORS LTD.

Thank you for your letter dated 16 August 1996.

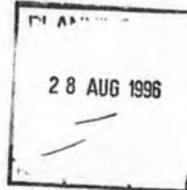
I have no further comments to add to my previous letter dated 24 July 1996 regarding your consultation, reference CONLETO21/5/96/0787 copy enclosed.

Yours faithfully


N M McDonald
Acting Senior Planning Liaison Officer (North East)

This matter is being dealt with by:
Miss Sharon Manley, The Grange, 97 Crossbrook Street, Waltham Cross, Herts,
EN8 8HE
Tel: (01992) 645079, Fax (01992) 630707

Enc.



ENVIRONMENT
AGENCY

Our Ref: SM/TL20NW/1/B(11130)
Your Ref: CONLETO21/5/96/0787
Date: 24th July 1996

Director of Planning & Heritage
City & District of St Albans
Civic Centre
St Peter's Street
ST ALBANS
Herts AL1 3JE

FAO: Margaret DeMaria

Dear Madam

PROPOSED: ERECTION OF STABLE BUILDING FOR ACCOMMODATING HORSES, WITH ASSOCIATED GROOMING AND STORAGE FACILITIES.
LOCATION: LAND TO THE SOUTH OF COLNEY HEATH FARM, COLNEY HEATH, ST ALBANS.
APPLICANT: MR J CLARKE.

Thank you for your letter dated 24th June 1996.

The Agency has no objection, in principle, to the proposed development provided the following conditions are imposed on any planning permission granted:

CONDITION: No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
REASON: To prevent pollution of the water environment.
CONDITION: The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.
REASON: To prevent pollution of the water environment.

(Note to Planning Authority: The Environment Agency should be consulted on any details submitted pursuant to the above conditions.)

Advice to Applicant

Land Drainage (contact Alastair Moody 01992 645068)

The site in question is adjacent to the River Colne and whilst I have no knowledge of any specific flood event affecting the site the land may, due to its topographic position, be liable to flood.

The applicant should be informed of the situation and be advised to make local enquiries to ascertain any flooding information.

Should the applicant ascertain evidence of flooding affecting the site, they should contact the Environment Agency for advice.

Groundwater Protection (contact John Lynch 01992 645098)

Drainage from covered concrete stable flooring should not discharge to the surface water system.

Liquor derived from straw soaking should not discharge to the surface water system.

The use of shallow soakaways for clean roof drainage is acceptable.

No soakaways shall be constructed to a depth exceeding 3 metres below existing ground level, and under no circumstances shall the water table be intersected.

Could you please send me a copy of the decision notice, quoting our reference.

A copy of this letter has been sent to the applicant/agent.

Yours faithfully

P.P. [Redacted]

N M McDonald
Acting Senior Planning Liaison Officer (North East)

This matter is being dealt with by:
Ms. S Manley, The Grange, 97 Crossbrook Street, Waltham Cross, Herts, EN8 8HE.
Tel: (01992) 645079, Fax (01992) 630707

South
7/10/96

16. 5/96/1240 OUTLINE

MR J CLARKE - ERECTION OF STABLES WITH ASSOCIATED GROOMING AND STORAGE FACILITIES - LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD, COLNEY

14.8.96

Background

The site is located on the southern side of Tollgate Road access to which is adjacent to No 42 Tollgate Road, a residential property. There is a public footpath from this access following the NW boundary of the field which is marked by a 2.5m high hedge.

It is proposed to erect a stable block 39m long and 5.4m wide along the NW field boundary some 95m from the access with Tollgate Road. At its nearest point, the proposal would be 40m from the end of the rear garden of No 42 Tollgate Road and 110m from the River Colne. The stables would be 3.3m in height and would contain seven stable units together with grooming and storage facilities. They would be constructed of stained timber boarding with a green mineralised felt roof. It is proposed to plant hawthorn hedging to the north east of the stables to screen them from nearby properties and the road.

The site is within the Metropolitan Green Belt.

Relevant Planning Policy

St Albans District Local Plan Review 1994

Policy 1 Metropolitan Green Belt

Policy 69 General Design and Layout

Policy 96 Medium Intensity Leisure Uses in the Green Belt

Relevant Planning History

5/96/0787 - Erection of stable. Refused 22 July 1996 for the following reason:-

"By reason of its size and siting and in particular its proximity close to the boundary of No 42 Tollgate, the proposed development would be likely to have an overbearing impact on the occupiers of that property to the detriment of their amenity and to the amenity of the area in general. The proposal would conflict with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

Representations

Colney Heath Parish Council:

Any representations received will be reported orally at the meeting.

Advertisement:

The application was advertised as minor development. The advert expired on 19 September 1996.

Adjoining Occupiers:

42, 44, 46, 52, 80 and 106 Tollgate Road, 9 and 11 Fellowes Lane and Tollgate Farm. Notified 16.8.96.

Letters of objection have been received from 44 and 46 Tollgate Road making the following observations:-

1. The proposal is too close to residential properties resulting in nuisance from noise, and smell;
2. The access from Tollgate Road is inadequate;
3. The proposal would be visually obtrusive;
4. The stables should be positioned among the buildings at Colney Heath Farm.

Consultations:

Director of Technical Services notified 16.8.96. No highway objections or concerns regarding the footpath raised. Any comments concerning landscaping will be reported orally at the meeting.

Environment Agency notified 16.8.96. No objection in principle subject to conditions regarding disposal of waste and drainage.

Hertfordshire Environmental Records Centre notified 3.9.96. They are satisfied that the ecological interests of this site should not be compromised.

Discussion

The erection of stables is considered acceptable development within the Metropolitan Green Belt as long as it integrates with the existing landscape.

The proposed positioning, materials and hedging would ensure that the stables would not be unduly obtrusive within the landscape, thus complying with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

The previous application (5/96/0787) was refused because of proximity to residential properties in Tollgate Road and the resulting impact and loss of amenity to the occupiers of No 42. This has been addressed by the relocation of the proposed stables to a site some 40m away from the residential properties, while maintaining a distance from the flood plain of the River Colne and convenient access onto Tollgate Road.

Recommendation - GRANT

Conditions:

1. C14 (Limited Period - building and use) 3 years
2. C30 (Completed Development)
3. The use of the building hereby permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.

4. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
5. The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.

Reasons:

1. R14
2. R30
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.

Decision Notice Code: A1 Plan Nos: T800 and site location plan.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Report written: 20.9.96

Bibliography

<u>Title of Background Documents</u>	<u>Custodian & Tel No</u>	<u>File Location</u>
St Albans District Local Plan Review, 1994	Mrs W Burt 01727 866100 Ext 2347	Council Offices Civic Centre St Peters Street St Albans, Herts AL1 3JE

Relevant Previous Planning Decisions

5/96/0787 Erection of stable. Refused 22.7.96

Consultations

Director of Technical Services 20.8.96

Environment Agency 22.8.96

Environmental Records Centre 18.9.96

Third Party Responses

Lynn D Skelt, 44 Tollgate Road, 5.9.96

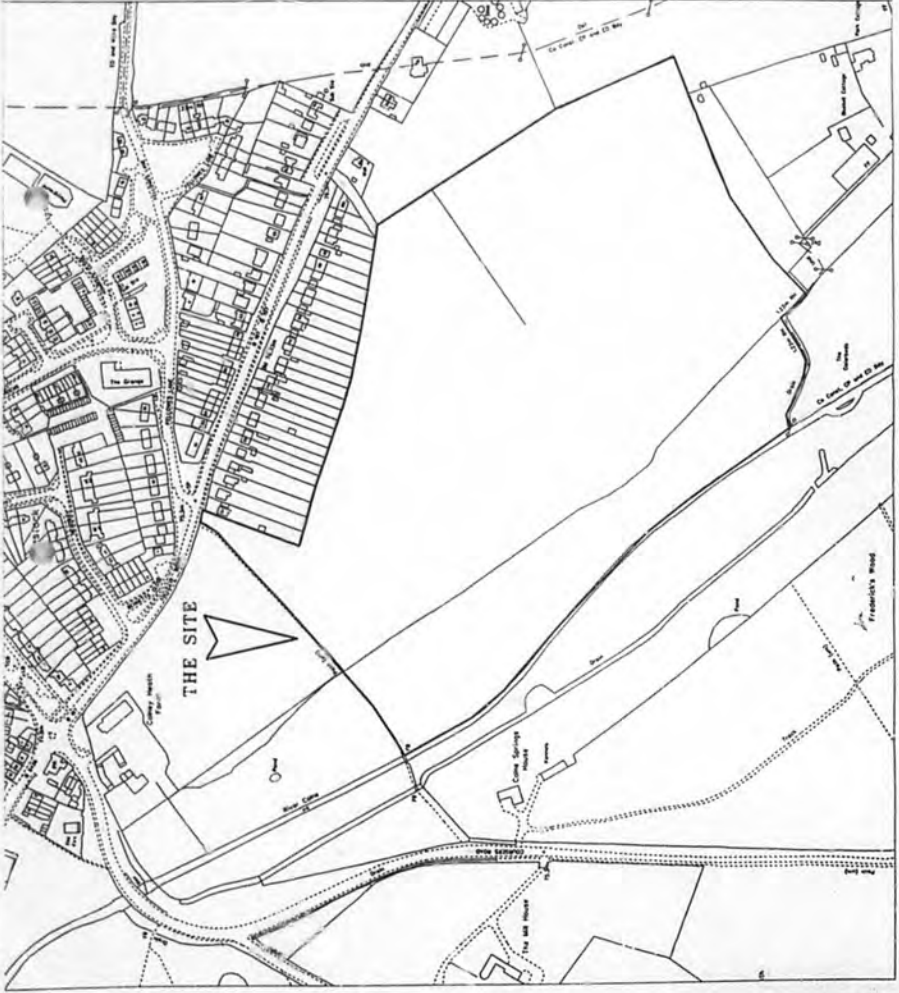
Mr N Nichollas, 46 Tollgate Road, 6.9.96

TITLE	Land Colney Heath
NOTES	
5 96/1241	
GEOGRAPHIC INFORMATION	



DRAWN CPW
 SCALE 1" = 2500'
 DATE 12/08/96
 REF. No.
 PLAN No.

Approved from the previous survey and
 was the possession of the Executive of
 the County of Loudoun, Virginia.
 All Rights Reserved.
 Copyright and any and all other rights
 reserved. License No. 12345





Director of Planning and Heritage

P J LERNER MA DipTP MRTPI

See Sinclair
Tollgate Farm
Colney Heath
St Albans
Herts
AL4 0NY

+ 46 TOLLGATE ROAD,
44,
→ HERTS ENVIRONMENTAL RECORDS
+ ENVIRONMENT AGENCY

Our ref: NGHBRNOTA/5/96/1240
Please ask for: Margaret DeMaria
Extension: 2345
Date: 16th October 1996

Dear Sir/Madam

Town and Country Planning Act 1990

Land to south of Colney Heath Farm,
Coursers Road, Colney Heath
Erection of stable with associated grooming
and storage facilities

Thank you for writing to me recently about this planning application. I can now advise you that the application has been APPROVED.

I am grateful to you for your interest in this matter. If you would like further information, you may inspect the planning file relating to this application, under the provisions of the Local Government (Access to Information) Act 1985, at this office during normal working hours. It would be helpful if you could telephone this office (Extension 2712) before your visit to ensure that the file is available for you to look at.

Yours faithfully

Director of Planning and Heritage



DIRECTOR OF PLANNING AND HERITAGE
P J LERNER, MA, DipTP., MRTPI.

Our Ref: 5/96/1240 &
TP/2/8(601)sp
Your Ref: Mr N Smith
Please ask for:
Direct Line No: 2346
Extension: 01727 845658
Planning Fax No: 14th November 1996
Date:

Templars Building Surveyors Ltd
22 High Street
Baldock
Herts
SG7 6AX

Dear Sirs

ERECTION OF STABLE WITH ASSOCIATED GROOMING AND STORAGE FACILITIES

LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD, COLNEY HEATH

Planning permission has recently been granted under Ref. 5/96/1240 for the above development, subject to conditions.

The following conditions state that the details of specific aspects of the development must be approved in writing by the District Planning Authority prior to works commencing and shall not be altered or changed without written approval. These are:-

5. Stable floor drainage system
6. Landscaping scheme

Perhaps you will ensure these are complied with to ensure no work is undertaken in breach of any condition.

Yours faithfully,

[Redacted signature]

N. SMITH
SENIOR PLANNING ENFORCEMENT OFFICER





DIRECTOR OF PLANNING AND HERITAGE.
P.J. LERNER, MA., Dip/T.P., MRTPI.

Our Ref: AVM/ton/5/96/1240
Your Ref:
Please Ask For: Mr A Moorhouse
Extension: 2744
Direct Line No:
Fax No: 01727 845658
Date: 19th November 1996

Environment Agency
The Grange
97 Crossbrook Street
Waltham Cross
Herts
EN8 8HE

For the attention of Sharon Manley

Dear Sir

Planning permission S/96/1240
Stables, Colney Heath Farm.

I refer to the above mentioned planning permission for stables at Colney Heath Farm, Colney Heath.

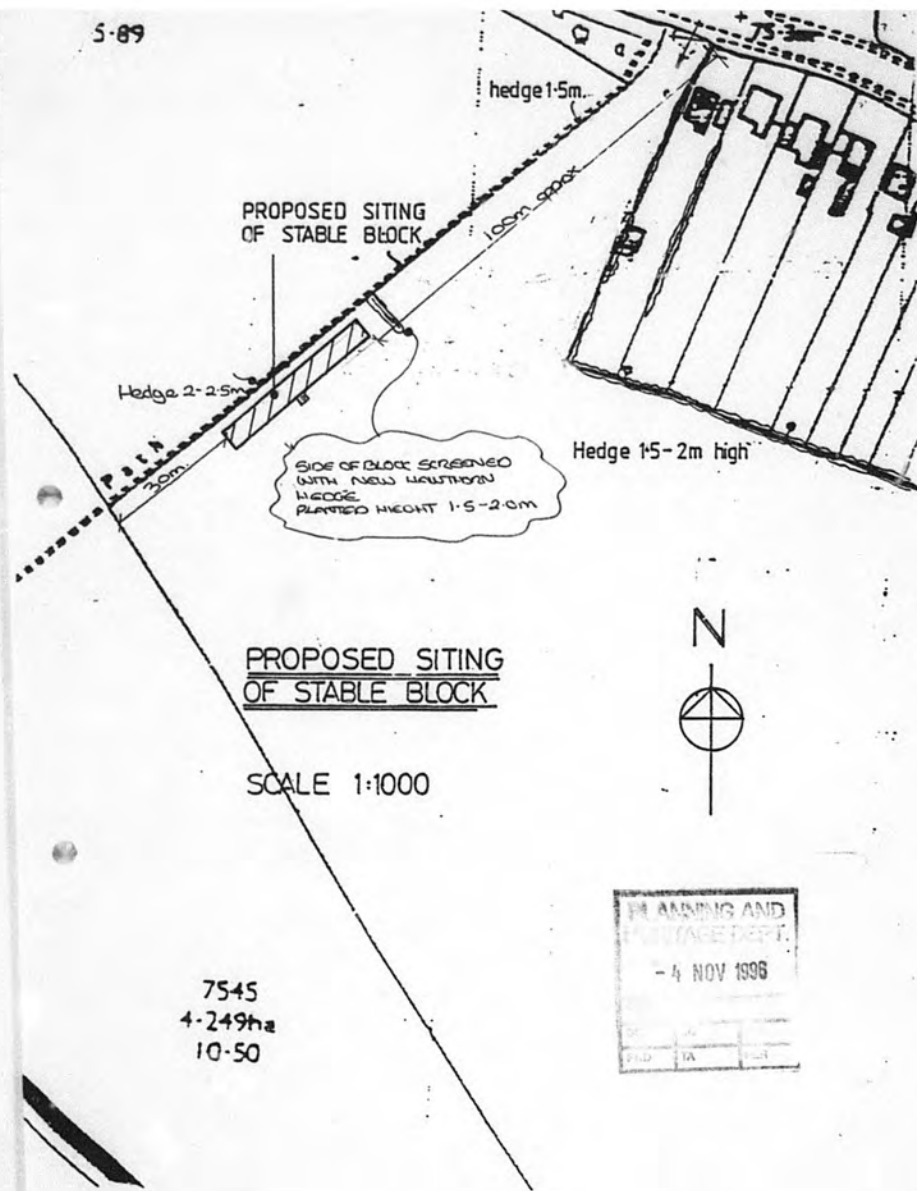
I enclose details of the information required to discharge the conditions applied by the Environment Agency and would be obliged if you could advise me of your observation.

Yours faithfully

A M Moorhouse
Area Team Leader



5-89



PROPOSED SITING
OF STABLE BLOCK

SCALE 1:1000

7545
4.249ha
10-50

PLANNING AND
HERITAGE DEPT.
- 4 NOV 1996

Chartered
Building
Surveyors

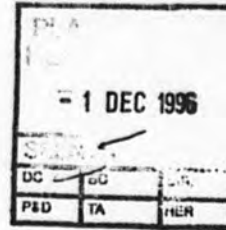


TEMPLARS
BUILDING SURVEYORS LTD.

Sent to G Keeley for response 4/12

Baranite House,
13 Whitehorse Street,
Baldock,
Herts., SG7 6QB

OUR REF: T/800/SJR/RJD
YOUR REF:



Tel & Fax (01462) 490350

27 November 1996

B

The Director of Planning & Heritage
City & District of St Albans
District Council Offices
Civic Centre
St Peters Street
St Albans
Hertfordshire
AL1 3JE

FAO: Mr A V Moorhouse

Dear Sirs

**RE: MR J CLARKE - LAND AT COLNEY HEATH FARM - APPLICATION FOR
ERECTION OF STABLE BUILDING**

Thank you for your letter of 20th November 1996.

You have been in receipt of the details provided in my letter of 29th October 1996 for some three weeks and I am somewhat disappointed to get a letter which does nothing but to hold this matter in abeyance.

At the outset, I stressed to the planning officer dealing with this matter that time was of importance as there are horses in foal requiring stable accommodation.

The landscaping proposals are, to say the least, basic and in my opinion do not warrant a fully detailed plan. The arrangements for effluent disposal I have negotiated directly with the Environment Agency to save time.

I would urge you to give this matter your prompt attention to enable my client to proceed.

Yours faithfully
for TEMPLARS BUILDING SURVEYORS LTD


S J ROGERS, F.R.I.C.S.

96/0767
96/1240

Chartered
Building
Surveyors



TEMPLARS
BUILDING SURVEYORS LTD.

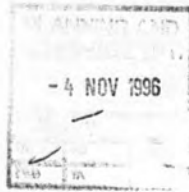
Baranite House,
13 Whitehorse Street,
Baldock,
Herts., SG7 6QB

OUR REF: T/071/SJR/RJD
YOUR REF:

Tel & Fax (01462) 490350

29 October 1996

Director of Planning
City & District of St Albans
District Council Offices
Civic Centre
St Peters Street
St Albans
Hertfordshire
AL1 3JE



B

Dear Sirs

RE: REF: 5/96/1240 - COLNEY HEATH FARM - ERECTION OF STABLE BUILDING

I write with reference to your Notice of Approval in respect of the above dated 8th October 1996.

The additional information requested under the various conditions is enclosed herewith as follows.

Conditions 4 & 5 - Effluent disposal

The stable floor drainage system is as shown on the attached plan. Basically, a proprietary silage tank (Klargester) will be installed underground complete with access cover and frame for emptying purposes. During washing down, the run-off will be directed into a drainage channel discharging into the tank which will have a capacity of around 600 gallons therefore requiring emptying approximately twice per annum.

The waste liquid, on emptying, will either be irrigated over the fields or taken away from site by a licences contractor.

The solid waste/straw bedding will be stored either in one of the disused stable boxes or, if all boxes are required for use, then externally under cover and be available for local residents for allotment use etc.

Condition 6

In respect of Condition 6, a hawthorn screening hedge is shown on the application plan, this being the only landscaping proposed. Existing hedges are also indicated on the plan. There are no further planted, seeded, paved areas etc. proposed as part of the development.

Cont/...

.../2

The floor level of the stable block is to be 100mm above adjacent ground level as a minimum although as the ground slopes slightly to the southwest, the ground level here will be between 2-300mm below the level of the concrete floor.

I trust these proposals meet your requirements and would appreciate a prompt response to enable my client to commence construction.

Yours faithfully
for TEMPLARS BUILDING SURVEYORS LTD


S J ROGERS, F.R.I.C.S.

cc: Mr John Lynch, Environment Agency, The Grange, 97 Crossbrook Street, Waltham Cross, Herts EN8 8HE

Chartered
Building
Surveyors



TEMPLARS

BUILDING SURVEYORS LTD...

Baranite House,
13 Whitehorse Street,
Baldock,
Herts., SG7 6QB

OUR REF: T/800/SJR/RJD
YOUR REF:

PA		
= 1 DEC 1996		
DC	GC	LR
P&D	TA	HR

Tel & Fax (01462) 490350
27 November 1996

The Director of Planning & Heritage
City & District of St Albans
District Council Offices
Civic Centre
St Peters Street
St Albans
Hertfordshire
AL1 3JE

FAO: Mr A V Moorhouse

Dear Sirs

**RE: MR J CLARKE - LAND AT COLNEY HEATH FARM - APPLICATION FOR
ERECTION OF STABLE BUILDING**

Thank you for your letter of 20th November 1996.

You have been in receipt of the details provided in my letter of 29th October 1996 for some three weeks and I am somewhat disappointed to get a letter which does nothing but to hold this matter in abeyance.

At the outset, I stressed to the planning officer dealing with this matter that time was of importance as there are horses in foal requiring stable accommodation.

The landscaping proposals are, to say the least, basic and in my opinion do not warrant a fully detailed plan. The arrangements for effluent disposal I have negotiated directly with the Environment Agency to save time

I would urge you to give this matter your prompt attention to enable my client to proceed.

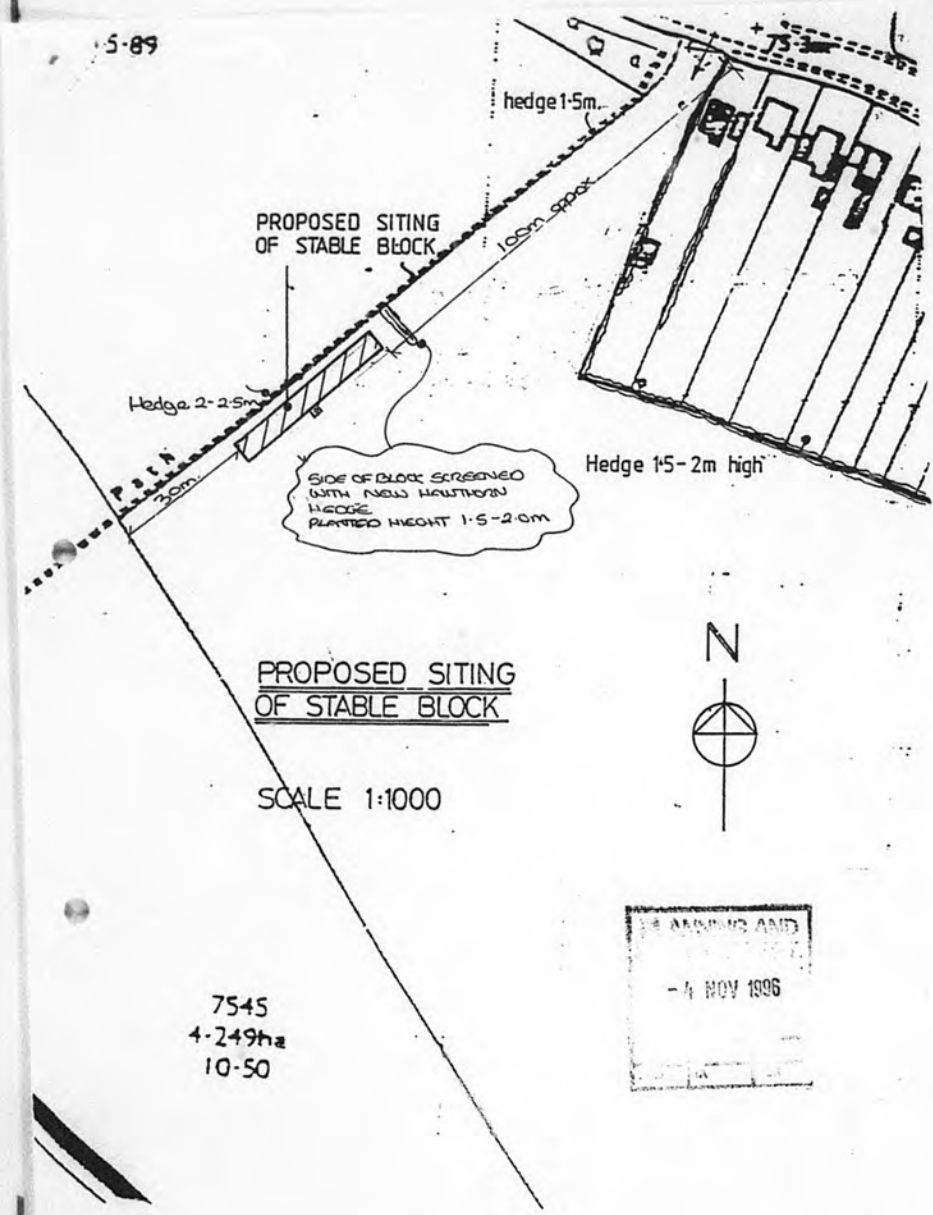
Yours faithfully
for TEMPLARS BUILDING SURVEYORS LTD

S J ROGERS, F.R.I.C.S.

Alan
This is fine. I was
happy with it as part of
the application.

DIRECTORS: S. J. ROGERS F.R.I.C.S. P. W. MORRIS A.R.I.C.S.

3/12
4.12.96.





DIRECTOR OF PLANNING AND HERITAGE
P J LERNER, MA, DipTP., MRTPI.

Our Ref: AVM/5/96/1240 sps
Your Ref: Mr A Moorhouse
Please ask for:
Direct Line No: 2744
Extension: 01727 845658
Planning Fax No: 9th December 1996
Date:

Templars
Building Surveyors Ltd
Baranite House
13 Whitehorse Street
Baldock
Herts
SG7 6QB

Dear Sir

PLANNING PERMISSION 5/96/1240
STABLES, COLNEY HEATH FARM

Thank you for your letter dated 29th November 1996 concerning the above.

I would confirm that the submitted landscaping scheme is acceptable.

Yours faithfully

A V MOORHOUSE
AREA TEAM LEADER

... IS NEEDED TO BE REQUIRED WHEN YOU
COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR
TITLE DEEDS.

D.C.3

Ref No. 5/96/1240

TOWN & COUNTRY PLANNING ACT 1990
CITY AND DISTRICT OF ST ALBANS

AGENT	APPLICANT
Templars Building Surveyors	Mr J Clarke
Ltd	The White Barn
22 High Street	Colney Heath
Baldock	St Albans
Herts	Herts
SG7 6AX	

Erection of stable with associated grooming
and storage facilities

Land to South of Colney Heath Farm,
Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act and the
Orders and Regulations for the time being in force thereunder, the
Council hereby permit the development proposed by you in your
application dated 9th August 1996 and received with sufficient
particulars on 14th August 1996 and shown on the plan(s) attached
subject to the following conditions:-

1. This permission shall be for a limited period expiring
3 years after the date of this notice. On or before that
date the use hereby permitted shall be discontinued
and the building and works carried out under this permission
shall be removed and the land cleared to the satisfaction of
the District Planning Authority.
2. The development hereby permitted shall be carried out and
completed in all respects in accordance with the plans
hereby approved and/or any plan subsequently approved by the
District Planning Authority prior to the first occupation of
the approved development.
3. The use of the building hereby permitted shall be limited to
stables for private purposes only and no trade or business shall
be carried out on or from the site.
4. No solid matter shall be deposited so that it passes or is likely
to pass into any watercourse.
5. The construction of the stable floor drainage system shall be
carried out in accordance with details submitted to and approved
in writing by the Planning Authority before the development
commences.



6. The development hereby permitted shall not be commenced until a scheme for landscaping, showing existing and proposed ground levels and including tree and/or shrub planting, seeding, paving and treatment of other hard surfaces, plant containers and raised beds (all indicating any existing trees and shrubs not otherwise affected by the proposed development and which are to be retained) has been approved in writing by the District Planning Authority. The landscape scheme shall be completed within 12 months of the bringing into use of any part of the approved development, unless the period is extended in writing by the District Planning Authority or unless the approved scheme specifically provides an alternative timetable.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:-

1. The proposed form of development is not appropriate for a permanent permission.
2. To ensure that the development will be carried out as approved and to avoid any detriment caused by works remaining uncompleted.
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.
6. To ensure satisfactory landscaping of the site in the interests of visual amenity.

Dated 8th October 1996

Signed

Director of Planning & Heritage

SEE ATTACHED SHEET FOR NOTES

MAN

DISTRIBUTION LIST FOR - South of Colney Heath Farm, Colney Heath, St Albans

Adjoining Owners

42, 44, 46, 52, 80 and 106 Tollgate Road, 9 and 11 Fellowes Lane and Tollgate Farm.

Environment Agency

Hertfordshire Environmental Records Centre

Colney Heath Parish Council

The Hertfordshire Society

The Editor The Review
The Editor The Observer
The Editor The Herts Advertiser
The Editor The Herald

Public Relations - J. Ratford
Planning Officer - A. Moorhouse

Councillors:

Plans (South):

Abidi
Baillie
Blackwell
Mrs Defoe
Finley
Gordon
Henchley
Hendry
Ransted





M LOVELADY LL.B
District Secretary and Solicitor

Our Ref: F/APP/1461/LJD/jc
Your Ref:
Please ask for: Ms L J Dickinson
Extension: 2304
Fax: 01727 838605
DX: 6178 ST ALBANS - 1
Date: 11 April 1997

The Owner/Occupier

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY: Mr J Clarke
CONCERNING South of Colney Heath Farm, Colney Heath, St Albans

I am writing at the request of the Secretary of State for the Department of the Environment to inform you that an appeal has been lodged by Mr J Clarke against one of the conditions imposed by this Council when granting planning permission for the erection of a stable with associated grooming and storage facilities (Ref. No. 5/96/1240). The council granted this planning permission on 8 October 1996 subject to six conditions.

Mr J Clarke has appealed to the Secretary of State against the imposition of condition 1 which states as follows:-

1. This permission shall be for a limited period expiring 3 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the building and works carried out under this permission shall be removed and the land cleared to the satisfaction of the District Planning Authority.

Mr J Clarke appealed against the condition on the following grounds:-

(Please see Grounds of Appeal attached).

The appeal is being dealt with by written representations, and you may wish to give your views on it. However, I must point out that any observations you make will be disclosed to the parties to the appeal. Letters should be sent direct to:-

Secretary of State,
The Planning Inspectorate,
Room 10/23,
Tollgate House,
Houlton Street,
Bristol BS2 9DJ

Continued../

Continued../

Page 2

quoting reference APP/B1930/A/97/279137, as soon as possible but within the next 21 days. (Please if possible enclose 2 copies of your letter so that copies may be sent by the Department of the Environment to the Appellant and the Local Planning Authority without delay). Would you please note that all responses received at application stage have already been sent to the Department of the Environment and the Appellant.

Copies of the planning application and appeal documents may be inspected at the offices of the Director of Planning and Heritage, Civic Centre, St. Albans, from Monday to Friday between 9.00 a.m. and 4.45 p.m. (4.15 p.m. Fridays).

If you are not the owner of the property to which this letter is addressed, would you please ensure that the owner is made aware of this appeal by showing him this letter, or alternatively, telephone my assistant and give her details of the owner's address so that a copy may be sent to him.

If you wish to be informed of the decision on the appeal, would you please request this when writing to the Secretary of State.

Yours faithfully


DISTRICT SECRETARY AND SOLICITOR





The Planning Inspectorate

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

Room 10/23
Tollgate House
Houlton Street
Bristol BS2 9DJ

LEGAL
RECEIVED

27 MAR 1997

DEPARTMENT

Direct Line 0117-987 8696
Switchboard 0117-987 8000
Fax No 0117-987 8624
GTN 1374

District Secretary and Solicitor
City and District of St. Albans
District Council Offices
Civic Centre
St. Peters Street
St. Albans
Herts. AL1 3JE

Your Ref:
5/96/1240
Our Ref:
APP/B1930/A/97/279137

Date: 25 March 1997

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990
APPEAL BY MR J CLARKE
SITE AT LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD,
COLNEY HEATH

I have received an appeal form and accompanying documents for this site. I am the case officer. I am checking the papers and if I need further information, or if the appeal is invalid, I will write again.

The appellant has chosen the written procedure. The date of this letter is the starting date for the appeal. Unless you tell me otherwise, I will assume that you do not wish to exercise your right to be heard.

As you know, if you agree to the written procedure, you are required to:

- ♦ **Within 5 working days** - notify interested persons who were required to be consulted on the original planning application, and all those who made representations at application stage, that an appeal has been made. You should tell interested persons that any comments they have on the appeal should be made in writing and sent directly to me within the next 28 days and that we will acknowledge all further letters that we receive. **Please also tell them that if they wish to receive a copy of the appeal decision letter, they must write to me asking for one.**
- ♦ **Within the next 14 days** - send the appellant and me, a completed appeal questionnaire together with all the necessary enclosures.
- ♦ **Within the next 28 days** - send the appellant and me, any further statement you wish to make, if the questionnaire and supporting documents do not comprise your case. Please keep the statement concise as recommended in DOE circular 15/96.

We will arrange for our inspector to visit the appeal site and will send you details.

You should keep to the timetable set out on the previous page. Inspectors will not accept representations at the site visit, nor will they wait for representations. Having drawn your attention to the timetable, I will not send reminders to you or the appellant.

Please send any further correspondence to me, giving the full appeal reference number. If you have any questions, please contact me.

Yours faithfully



MISS V HARSE

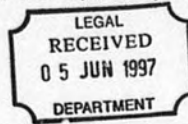
102



The Planning Inspectorate

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

Room 1202W
Tollgate House
Houlton Street
Bristol BS2 9DJ



Direct Line 0117-987 8832
Switchboard 0117-987 8000
Fax No 0117-987 8804
GTN 1374

District Secretary and Solicitor
City and District of St. Albans
District Council Offices
Civic Centre
St. Peters Street
St. Albans
Herts. AL1 3JE

Your Ref:
P/APP/1461/LJD
Our Ref:
APP/B1930/A/97/279137

Date: 3 June 1997


Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78
APPEAL BY MR J CLARKE
SITE AT LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD,
COLNEY HEATH

1. I am writing to inform you that the Inspector appointed by the Secretary of State to determine the above appeal in accordance with the provisions of Schedule 6 of the Act is Mr G Arrowsmith BA MCD MRTPI
2. As notified by telephone recently, the Inspector will visit the site on Tuesday 24 June 1997. It is understood that you will arrange for him to be met at the site at 3:30 to enable the inspection to be made.
3. The Inspector will expect to be accompanied by representatives of both parties. If one of the parties fails to arrive, the Inspector will determine the most suitable course of action, which could mean that he will conduct the visit unaccompanied. In other circumstances, the visit might have to be aborted.
4. At the commencement of the site inspection the Inspector will make it clear that the purpose of the visit is not to discuss the merits of the appeal or to listen to arguments from any of the parties. The Inspector will ask the parties to draw attention to any physical features on the site and in its vicinity. In turn the Inspector may wish to confirm particular features referred to by interested parties in their written representations.

5. In general, decision letters are issued within 5 weeks of the date of the Inspector's site visit, although we cannot be precise about individual cases. If despatch of the letter is likely to be significantly delayed, due for example to the receipt of late representations, we will let you know.

Yours faithfully


Mrs K R Vicker

NB: All further correspondence should be addressed to the Case Officer (see initial correspondence).
(209C 5/4/94)

The Planning Inspectorate

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

PLANNING APPEAL

PLANNING AND HERITAGE DEPT.
24 MAR 1997
FOR OFFICIAL USE ONLY Date received

The appeal must reach the Inspectorate within 6 months of the date of the Notice of the Local Planning Authority's Decision, or within 6 months of the date by which they should have decided the application.

A. INFORMATION ABOUT THE APPELLANT(S)

Full Name: MR JOE CLARKE	ST. ALBANS DISTRICT COUNCIL DISTRICT COUNCIL OFFICES
Address: THE WHITE BARN COLNEY HEATH, ST ALBANS, HERTS.	24 MAR 1997 RECEIVED
Postcode: Reference:	
Daytime Telephone No: Fax No:	
Agent's Name (if any): MR S ROGERS, TEMPLARS BUILDING SURVEYORS LIMITED	
Agent's Address: BARAITE HOUSE, 13 WHITEHORSE STREET BALDOCK, HERTS.	
Postcode: SG7 6QB Reference: T/900	
Daytime Telephone No: Fax No:	

B. DETAILS OF THE APPEAL

Name of the Local Planning Authority (LPA): CITY AND DISTRICT OF ST ALBANS	
Description of the Development: ERECTION OF STABLE BUILDING WITH ASSOCIATED GROUNDING AND STORAGE FACILITIES.	
Address of the Site: LAND TO SOUTH OF COLNEY HEATH FARM, COLNEY HEATH, ST ALBANS, HERTS	National Grid Reference (see key on OS map for Instructions). Grid Letters: Grid Numbers eg TQ:298407
Postcode: <small>Failure to provide the postcode may cause delay in processing your appeal.</small>	TL 05 19
Date and LPA reference number of the application you made and which is now the subject of this appeal: 5/96/1240 9th August 1996	Date of LPA Notice of Decision (if any): 8th October 1996.
Are there any outstanding appeals for this site eg Enforcement, Lawful Development Certificate etc? If so please give details and any DOE reference number here: no	

C. REASON FOR THE APPEAL

THIS APPEAL IS AGAINST the decision of the LPA:- (* Delete as appropriate) (✓)

- to ~~refuse~~/grant subject to conditions, planning permission for the development described in Section B.
- to ~~refuse~~/grant subject to conditions, approval of the matters reserved under an outline planning permission.
- to refuse to approve any matter (other than those mentioned in 2 above) required by a condition on a planning permission.

Or the failure of the LPA:-

- to give notice of their decision within the appropriate period on an application for permission or approval.

D. CHOICE OF PROCEDURE

CHOOSE ONE OF THE FOLLOWING TYPES OF PROCEDURE - These are described fully in the booklet 'Planning Appeals - A Guide' which accompanied this form.

- WRITTEN REPRESENTATIONS
If you have chosen the written representations procedure, please tick if the whole site can clearly be seen from a road or other public land. (An unaccompanied site visit will be arranged if the Inspector can adequately view the site from public land.)
- LOCAL INQUIRY Please give reasons why an inquiry is necessary
- HEARING Although you may prefer a hearing, the LPA need to agree to this procedure and the Inspectorate must consider your appeal suitable.

E. ESSENTIAL SUPPORTING DOCUMENTS

A copy of each of the following should be enclosed with this form.

- The application submitted to the LPA:
- The site ownership details (Article 7 certificate) submitted to the LPA at application stage:
- Plans, drawings and documents forming part of the application submitted to the LPA:
- The LPA's decision notice (if any):
- Other relevant correspondence with the LPA:
- A plan showing the site in red, in relation to two named roads (preferably on an extract from the relevant 1:10,000 OS map). (Failure to submit this can delay your appeal).

Copies of the following should also be enclosed, if appropriate:

- If the appeal concerns reserved matters, the relevant outline application, plans submitted and the permission:
- Any plans, drawings and documents sent to the LPA but which do not form part of the submitted application (eg drawings for illustrative purposes):
- Additional plans or drawings relating to the application but not previously seen by the LPA. Please number them clearly and list the numbers here:

F. APPEAL SITE OWNERSHIP DETAILS

IMPORTANT: THE ACCOMPANYING NOTES SHOULD BE READ BEFORE THE APPROPRIATE CERTIFICATE IS COMPLETED. CERTIFICATES A AND B ARE GIVEN BELOW. IF NEEDED, CERTIFICATES C AND D ARE ATTACHED TO THE GUIDANCE NOTES.

SITE OWNERSHIP CERTIFICATES

PLEASE DELETE IN APPROPRIATE WORDING WHERE INDICATED (*) AND STRIKE OUT INAPPLICABLE CERTIFICATE

CERTIFICATE A

I certify that:

On the day 21 days before the date of this appeal nobody, except the appellant, was the owner (see Note (i) of the guidance notes) of any part of the land to which the appeal relates.

OR

CERTIFICATE B

I certify that:

I have/the appellant has *given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner (see Note (i) of the guidance notes) of any part of the land to which the appeal relates, as listed below.

Owner's Name Address at which notice was served Date on which notice was served

I further certify that:

AGRICULTURAL HOLDINGS CERTIFICATE (TO BE COMPLETED IN ALL CASES WHERE A, B, C OR D OWNERSHIP CERTIFICATE HAS BEEN COMPLETED)

•• None of the land to which the appeal relates is, or is part of, an agricultural holding.

OR

•• I have/the appellant has *given the requisite notice to every person other than my/him/her* self who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as follows:

Tenant's Name Address at which notice was served Date on which notice was served

*Delete as appropriate. If the appellant is the sole agricultural tenant the first alternative should be deleted and "not applicable" should be inserted below the second alternative.

Signed (on behalf of) MR J CLARKE

Name (in capitals) S J ROGERS, F.R.I.C.S. Date 19.3.97

G. GROUNDS OF APPEAL If the written procedure is requested, the appellant's FULL STATEMENT OF CASE MUST be made - otherwise the appeal may be invalid. If the written procedure has not been requested, a brief outline of the appellant's case should be made here.

SEE ATTACHED SHEETS

Continue on a separate sheet if necessary

PLEASE SIGN BELOW

I confirm that a copy of this appeal form and any supporting documents relating to the application not previously sent to the LPA has been sent to them. I undertake that any future documents submitted in connection with this appeal will also be copied to the local planning authorities at the same time.

Signed (on behalf of) MR J CLARKE

Name (in capitals) S J ROGERS, F.R.I.C.S. Date 19.3.97

CHECKLIST - Please check this list thoroughly to avoid delay in the processing of your appeal.

- This form signed and fully completed.
- Any relevant documents listed at Section E enclosed.
- Full grounds of appeal/outline of case set out at Section G.
- Relevant ownership certificate A, B, C or D completed and signed.
- Agricultural Holdings Certificate completed and signed.
- ◆ **1ST COPY: Send one copy of the appeal form** with all the supporting documents to:
The Planning Inspectorate
Appeals Registry
Tollgate House
Houlton Street
BRISTOL
BS2 9DJ
- ◆ **2ND COPY: Send one copy to the LPA**, at the address from which the decision on the application (or any acknowledgements, etc) was received, enclosing any supporting documents not previously submitted to them as part of the application.
- ◆ **3RD COPY: For you to keep**

GROUNDS OF APPEAL

1.0 INTRODUCTION

This appeal is against the decision of the City and District of St Albans Planning Authority to grant planning permission subject to conditions for the erection of a stable building on land to the south of Colney Heath Farm, in Colney Heath.

Specifically, this appeal is against a condition which limits the permission to a three year period only.

2.0 BACKGROUND

An application was made on 22nd May 1996 to the local planning authority for the erection of stables on land to the south of Colney Heath Farm, Colney Heath.

Plans showing the proposals are attached as Appendix A and are given the planning reference 5/96/0787.

Basically, the proposals showed the erection of a timber stable building approximately 38M long x 5M wide sited against the northeastern boundary fence of number 42 Tollgate Road.

A number of objections were raised by local residents and, as a consequence, the application was refused on grounds of impact to the amenity of No. 42 and the area in general.

The refusal notice is attached as Appendix B.

Subsequently, discussions took place on site with the applicant and the authority with a view to arriving at a revised siting for the building such that the objections from nearby residents could be overcome.

A new application was then made on August 9th 1996 to the local planning authority showing the building resited but otherwise identical in terms of its size, construction etc. The revised application is attached as Appendix C. This application is given planning reference 5/96/1240.

I would point out that both applications were full applications and at no stage in the discussions did the Officer suggest that a condition to restrict the use for a temporary period was to be applied, or was under consideration.

This new application showed the building sited some 100M into the site (from Tollgate Road) against a substantial hedgerow which forms the northern site boundary. The building was therefore a considerable distance from the residential properties in Tollgate Road.

On 8th October 1996 the LPA granted permission for the development subject to six conditions. The approval notice is attached as Appendix D.

It is Condition Number One which grants permission for a three year period only which is the subject of this appeal. The remaining conditions are considered relevant to the application and

reasonable.

3.0 THE REASON FOR THE CONDITION

The condition attached to planning consent is set out in full below.

"This permission shall be for a limited period expiring three years after the date of this Notice. On, or before, that date the use hereby permitted shall be discontinued and the building and works carried out under this permission shall be removed and the land cleared to the satisfaction of the District Planning Authority."

The condition therefore is clear in what it requires the appellant to do, and when.

However, the reason for the decision, as stated on the consent form, is as below.

"The proposed form of development is not appropriate for a permanent permission."

This statement, in my opinion, is unclear. It does not set out precisely the reasoning behind the condition.

The form of development may, for example, relate to the physical building itself, its size, or perhaps the materials used for its construction. Alternatively, it could relate to the land use involved, i.e. stabling of horses.

In any event, I consider that this condition has not been applied giving due regard to the application which was for a full permanent building nor to the objectives of planning and advices given from central government in the form of planning circulars.

4.0 RELEVANT PLANNING POLICY

4.1 Structure Plan Policies (Hertfordshire County Structure Plan Review incorporating Approval Alterations 1991)

Policy 1 - Green Belt

The County Council's intention is to maintain a Green Belt in the south of the county.

Within the Green Belt, except for development in Green Belt settlements or in very special circumstances, planning permission will not normally be given for purposes other than that required for Mineral Extraction, Agriculture, Small Scale Facilities for Participatory Sport and Recreation and other uses appropriate to a rural area.

4.2 Local Plan Policies (City & District of St Albans Local Plan Review adopted Nov. 1994)

Policy 1 - Metropolitan Green Belt

This confirms the whole of the District of St Albans lies within the Metropolitan Green Belt.

Planning permission will not normally be given for development purposes other than that required for:

- a) Mineral extraction.
- b) Agriculture.
- c) Small scale facilities for participatory sport and recreation.
- d) Other uses appropriate to a rural area.
- e) Conversion of buildings into appropriate new uses.

Policy 69

All development shall have an adequately high standard of design, taking into account the following:

- i) Context - the scale and character of its surroundings in terms of height, size, scale, density, or plot to floor space ratio.
- ii) Materials - shall normally relate to adjoining buildings. Large isolated buildings in rural or settlement edge settings shall be clad in materials that take account of the general colour and tonal value of their background.
- iii) Other policies - applicants should take into account all relevant policies and their requirements.

Policy 96

Medium intensity leisure uses in the Green Belt are normally restricted to Type B uses. (Type B is a medium intensity leisure activity requiring large areas of open land with few buildings but in intermittent or continuous use by relatively large numbers of people - e.g. Riding Stables).

4.3 Other Relevant Guidance

Planning Circular 11/95 The use of Conditions in Planning Permissions, sets out guidance on the appropriateness and use of conditions and is attached in full as Appendix E.

5.0 CONSIDERATION OF THE ISSUES

The site which is the subject of this appeal comprises 10.8 hectares and lies to the south of a group of buildings which formerly comprised Colney Heath Farmhouse and associated farm buildings.

The farmland has, over successive years, been fragmented to such an extent that farming operations ceased in or about 1985.

The appeal site has since been used for grazing horses for approximately five years by the appellant and its use for that purpose has not been questioned by the planning authority.

In terms of planning policies, the use of land for these purposes in appropriate use for a Green Belt being either considered other uses appropriate to a rural area and/or for a small scale facility for participating sport and recreation.

In their consideration of the application, the local planning authority considered relevant planning policy and in their report to planning subcommittee (south) on 7th October 1996, stated that the proposal "would not be unduly obtrusive within the landscape" thus complying with the provisions of policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

The LPA consulted with Technical Services, Environment Agency and Hertfordshire Environment Records Centre and no objections or concerns were raised.

The report further stated that the impact and loss of amenity factors relevant to the initial application had been addressed by the relocation of the proposed stables. The Officer's report to committee is attached as Appendix F.

In summary, the application complied with policy, no objections had been received from the consultees and the amenity issues (relevant to occupiers of residential properties in Tollgate Road) had been addressed.

In recommending the grant of permission however, Condition 1 applied a limited period for the development of three years.

Circular 11/95 is relevant to the use of conditions and I would like to make reference to that document to demonstrate why, in my view, the condition is not required and indeed has been applied contrary to the principles of good planning.

In the second paragraph of 11/95 it states "the objectives of planning are best served when the power to impose conditions are clearly seen to be fair, reasonable and practical.

Clearly the appellant was in negotiation with the LPA and should have been involved in any discussions relating to a temporary consent from the 'fairness' point of view and, indeed, paragraph 7 (Annexe A) of the document emphasises the usefulness of negotiations between the LPA and the applicant.

Paragraph 3 stresses that conditions should only be imposed where they are both necessary and reasonable.

Further, that in consideration of whether a condition is necessary, the authority should ask itself whether planning permission would have to be refused if the requirements of that condition were not imposed - if it would not then the condition needs special and precise justification.

Given the development which is the subject of this appeal complies with the development plan policies, the absence of Condition One would not result in the application being refused. Therefore the condition needs special and precise justification. The statement by the LPA that "the proposed form of development is not appropriate for a permanent permission" is neither special justification nor precise.

The LPA therefore have failed fundamentally in their consideration of the issues as to whether the

condition is necessary or reasonable.

Circular 11/95 sets out certain 'tests' which the LPA should take into account in considering imposing conditions. These are:

- i) Necessity.
- ii) Relevant to planning.
- iii) Relevant to the development proposal.
- iv) Enforceability.
- v) Precise.
- vi) Reasonable in all other aspects.

Conditions must satisfy all of these tests.

I would like to consider each of these tests in turn to demonstrate to the Inspector that the condition restricting the development to a three year period complies with very few of them.

i) Necessity

In considering whether a condition is necessary, the LPA should ask themselves whether planning permission would have to be refused without that condition being imposed. If not, any condition needs special justification.

The development proposal clearly complies with policies set out in the St Albans Local Plan. No objections from consultees were received. Although some letters of objection were received from residents, the LPA considered, and reported to committee, that the impact and amenity issues had been addressed (in this application).

There were therefore no grounds on which to refuse the application. The temporary period envisaged by the condition changes nothing in this respect the building, the materials in construction and the impact are all unaffected by the condition.

The condition therefore is not necessary.

ii) Relevance to Planning

Given the reasons put forward to justify the condition, it is difficult to see any relevance to planning.

Had the application been one where the impact of the land use was unknown, or could give rise to concerns over impact on the local amenity, then a temporary period as a 'trial run' has some planning relevance.

Whilst amenity and impact issues were concerns in the first application, the LPA considered these issues had been addressed in the second. The impact, of course, is immediate on erection and use of the building. It is either acceptable permanently or unacceptable - in which event the application could have been refused. There are many stable sites within the district for the authority to make an informal decision in respect of the impact on amenity of the development proposal.

iii) Relevance to the Development Proposal

Clearly the condition relates directly to the development proposals and no objections to it in this respect are raised.

iv) Enforceability

The condition wording is clear and unambiguous and considered, therefore, enforceable. (Albeit the reasoning behind the decision is, to say the least, vague).

v) Precise

Again, the condition is precise and complies with this requirement.

vi) Reasonable in all other respects

The building (which is now constructed) is substantial and has a concrete base, incorporating drainage channel and effluent tank. Electricity and water are connected and run from Tollgate Road some 100M to connect to the building.

This construction has involved considerable expenditure (approximately £20,000).

Demolition and clearance costs will also be substantial at the end of the three year period.

It is unreasonable, in my view, to give a three year temporary permission to this development given the amount of expenditure involved. This is especially so given the use of the building is not likely to generate any significant income as a return on capital.

Should the appellant wish to dispose of his land and property, any potential purchaser is likely to have regard to the costs of clearance of the stable building and, as such, is unlikely to proceed with any purchase.

The condition is, in my opinion, unduly onerous and places a severe limitation on the appellant's ability to dispose of this property.

In this respect, the advice in paragraph 36 of 11/95 is that such conditions should be avoided.

In summary, the Condition fails the test of Necessity, Relevance to the Planning and Reasonableness as described in Circular 11/95.

Section 108-111 of 11/95 deals specifically with temporary permissions.

Section 109 describes three factors which should be applied in considering a condition which has the effect of creating a temporary permission. These are set out below.

- a) It is rarely necessary to give temporary permission to an applicant who wishes to carry out development which confers with the provisions of the development plan.
- b) It is undesirable to impose conditions requiring demolition after a stated period of a

building that is clearly intended to be permanent.

- c) The material considerations to which regard must be had in granting any planning permission are not limited, or made different by a decision to make the condition a temporary one.

In respect of a), a fully documented application was made to the LPA and the development proposal clearly complies with the development plan.

In respect of b), it is clearly the intention that the building is permanent. In the first instance, full planning permission was applied for, not a temporary one. Secondly, the construction, albeit timber framed, is substantial with a permanent concrete base and water/electricity supplies connected at considerable expense. Given a moderate amount of maintenance expenditure, the building's expected life-span is at least 25 years.

In respect of c), the condition has no effect except at the end of a three year period when the building is to be demolished. All through that time period, the condition has no effect on the use of the building nor amenity factors such as noise, nuisance etc. These factors can all be controlled by other powers at the disposal of the planning authority.

In addition, of course, a further application could be made at the end of the three year period for retention of the building. Assuming development plan policies do not change during this period, it is most likely that no grounds for refusal would exist - a succession of such applications, each resulting in permissions for temporary periods is therefore a likelihood. In essence, the building could be perpetuated simply by a series of planning applications. Clearly this is not satisfactory from the appellant's point of view as the uncertainty will affect his attitude to expenditure and will interfere with his ability to dispose of his interest in the property.

Finally, Section 111 deals with 'trial runs'.

This provision envisages a use which is 'potentially detrimental' but where insufficient evidence exists for the local planning authority to assess it. In considering a condition which imposes a time limit to allow a trial run, regard should be had to the capital expenditure involved in carrying out the development. In this respect, the period of three years (which runs from the date of approval) is clearly unreasonable given the high level of expenditure necessary to erect and service the building which is the subject of this appeal.

6.0 SUMMARY

The development, which is the subject of this appeal, complies with the policies within the approved District Plan and the presumption is therefore in favour of the grant of planning permission.

However, the Condition applied, which provides only a temporary three year permission and which is the subject of this appeal, is unreasonable.

The manner in which the Condition has been applied is unfair in so far as no discussion has taken place with the appellant, the period is too short given the expenditure and serves no useful

function.

The local planning authority has not given sufficient consideration to the advices set out in Circular 11/95.

The Condition fails the test of Necessity, Relevance to Planning and Reasonableness as discussed in 11/95 and the authority appear to have given scant regard to the factors set out in paragraph 109 of 11/95 in respect of temporary permissions.

I therefore invite the Inspector to uphold this appeal and grant planning permission for the development subject only to Conditions 2 to the 5 inclusive as currently set out in the Approval Notice dated 8th October 1996.


S J ROGERS, F.R.I.C.S.

19/3/97

APPENDIX A



TOWN & COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION
OR FOR APPROVAL OF RESERVED MATTERS

This form should be submitted in triplicate with 7 copies of the plans (see notes 2 & 3 of the "Notes for the Guidance of Applicants") and the appropriate Article 12A certificate.

I/We hereby apply to St Albans District Council for planning permission/approval of reserved matters in respect of the development specified in this application and the plans accompanying it.

Signed: [Redacted] Date: 22/5/96

On behalf of: M.J. Clarke (if acting as agent)

PART I - GENERAL PARTICULARS to be completed in every case

- 1 APPLICANT (Block letters please)**

AGENT
(if any to whom all correspondence will be sent)

Surname: CLARKE Name: TEMPLARS BUILDING SURVEYORS LTD
Other Names: MR J Address: 22 HIGH STREET, BALDOCK,
Address: THE WHITE BARN, HERTS SG7 6AX
COLNEY HEATH, ST ALBANS, HERTS.
Tel No: D1462 490350
- 2 For what are you seeking permission or approval?** Erection of stable building for
(Please give a full description of the proposal and purposes for which the land and/or buildings are to be used. If your proposal involves residential development please specify the number and type(s) of residential unit(s))
accommodating horses with associated grooming and storage facilities.
- 3 Address or location of the land or buildings involved in the application.**
LAND TO SOUTH OF COLNEY HEATH FARM, COLNEY HEATH.
- 4 ANSWER THIS QUESTION YES OR NO** YES/NO
Is the application accompanied by a fee? If YES, state amount £320.00
(See note 4 of the "Notes for Guidance of Applicants" and the schedule of current fees) If NO, indicate your reason for not doing so
N/A
- 5 What is the area of the whole of the site involved in the application?**
.....sq. metres or 10.9 hectares
- 6 ANSWER THIS QUESTION YES OR NO** YES/NO
Does the applicant own or control any adjoining land? If yes, identify by colouring blue on the site plans.
- 7 a) What is the applicant's interest in the land or building(s)?** e.g. owner, prospective purchaser, weekly tenant, lessee etc. a) OWNER
b) When was that interest obtained? b) MAY 1995

- c) If the applicant is a lessee, how many years of the lease remain? c)..... N/A
- 8 ANSWER THIS QUESTION YES OR NO** YES/NO
Does your application involve a change of use? If YES, go straight to question 12 If NO, please answer all of the following questions.
 - 9 ANSWER THIS QUESTION YES OR NO** YES/NO
Is the application one for the approval of matters reserved by an earlier outline planning permission? If YES, indicate the date and planning reference of the outline permission.
Date:.....N/A.....Ref No:5/.....
 - 10 ANSWER THIS QUESTION YES OR NO** YES/NO
Does this application seek outline planning permission only? If NO, all of the details 1-5 below must be included for the application to be accepted.
 - 11 Please indicate which of the following details are included in this application and which are not.**

1 Siting of the building(s)	included/not included
2 Design	included/not included
3 External appearance (including materials)	included/not included
4 Means of access	included/not included/none proposed
5 Landscaping (N.B. includes walls and fences - See Note 1 of the "Notes for the Guidance of Applicants" for definition)	included/not included/none proposed
 - 12 ANSWER THIS QUESTION YES OR NO** YES/NO
Is your application one for the renewal of a permission previously granted for a temporary period? If YES, indicate the date and reference of the previous permission.
Date:.....Ref No:5/.....
 - 13 ANSWER THIS QUESTION YES OR NO** YES/NO
Are you applying for planning permission to retain a building or to continue a use for which planning permission has not been granted, or to do either of these things without complying with a condition imposed on a previous planning permission? If YES, indicate the date number and condition of any relevant previous permission.
Date:.....Ref No:5/.....
Condition No:.....
 - 14 a) For what purpose(s) are the land and/or building(s) now used?** a) Land used for horse grazing. No stable buildings exist at present.
(Give details if more than one use and if in residential use, state number of units).
b) What is the total floor area of the existing building(s)? b) N/A
c) If land/building(s) are vacant, what were the last known uses and when did those uses cease? c) N/A
 - 15 Do the proposals involve:** YES OR NO Delete as appropriate
a) New buildings? YES/NO If YES state floorspace proposed
(see Note 2 of Notes for the Guidance of Applicants) 150metres²

- b) Change of use of land?
 c) Change of use of buildings?
 d) An extension to an existing building
 e) Demolition of any existing building or part of a building?
 16 What number of cars can be garaged or parked on the site at present and what total number is proposed in this application?

YES/NO
 If YES, state area involvedmetres²

YES/NO
 If YES, state floorspace involved.....metres²

YES/NO
 If YES, state floorspace of
 1. Existingmetres²
 2. Extension.....metres²

YES/NO
 state floorspace demolishedmetres²

	Garage	Parking
Existing	NONE	NONE
Proposed Total	NONE	NONE

- 17 a) How is access to be obtained to the site for:
 (i) Pedestrians?.....
 (ii) Vehicles?.....
 b) If by means of an existing access, is that access to be altered in any way? If so, please specify the alterations.

YES/NO
 (i) Pedestrians?.....
 (ii) Vehicles?.....

- 18 How will sewage and rainwater disposal be dealt with?

Sewage:.....
 Rainwater:.....

- 19 ANSWER THIS QUESTION YES OR NO
 Will any existing trees be felled or lopped or existing hedges removed?
 The following work which is shown on the submitted plan will be involved:

YES/NO

If any trees/hedges are affected in any way then a tree survey will be required. Is a tree survey enclosed with this application?

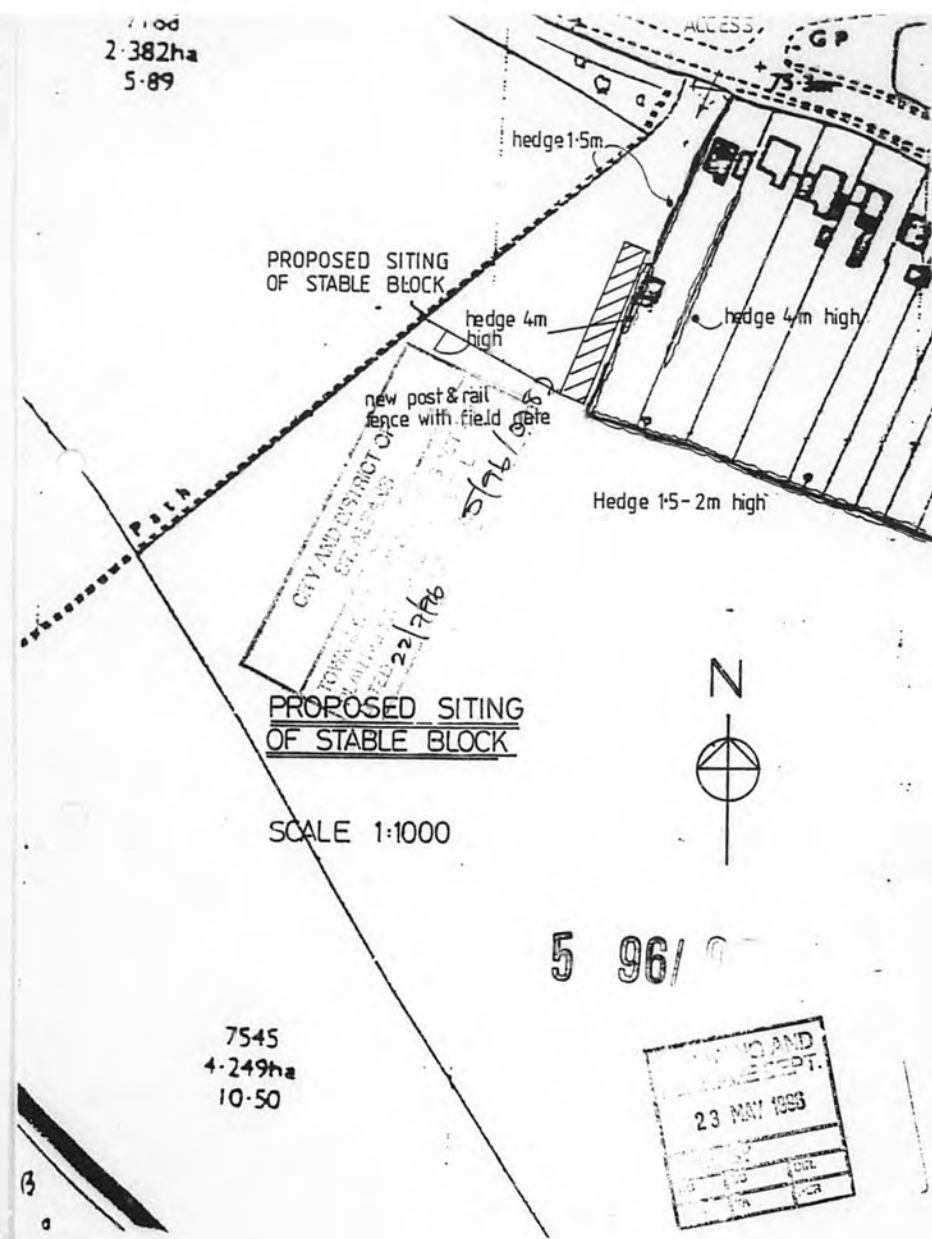
YES/NO N/A

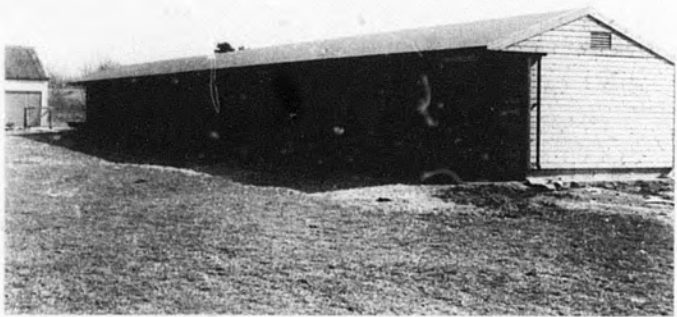
- 20 ANSWER THIS QUESTION YES OR NO
 Will any public right of way be affected? (eg. definitive footpath, bridleway)
 The following work which is shown on the submitted plan will be involved

YES/NO

- 21 What materials (type and colour) are to be used in the external appearance of walls, windows, roofing and fences?

Walls:.....
 Windows:.....
 Roofing:.....
 Fencing:.....





APPENDIX B

RECEIVED 26 JUL 1996

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.4

Ref No. 5/96/0787

TOWN AND COUNTRY PLANNING ACT, 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Templars Building Surveyors
Ltd
22 High Street
Baldock
Herts
SG7 6AX

APPLICANT
Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts

Erection of stable

Land to south of Colney Heath Farm, Colney Heath, St Albans

In pursuance of their powers under the above-mentioned Act 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 22nd May 1996 and received with sufficient particulars on 30th May 1996 and shown on the plan(s) attached.

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

1. By reason of its size and siting and in particular its proximity close to the boundary of No 42 Tollgate Road the proposed development would be likely to have an overbearing impact on the occupiers of that property to the detriment of their amenity and to the amenity of the area in general. The proposal would conflict with the provisions of policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

Dated 22nd July 1996

 signed
Director of Planning and Heritage

SEE ATTACHED SHEET FOR NOTES

APPENDIX C



TOWN & COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION
OR FOR APPROVAL OF RESERVED MATTERS

This form should be submitted in triplicate with 7 copies of the plans (see notes 2 & 3 of the "Notes for the Guidance of Applicants") and the appropriate Article 12A certificate.

I/We hereby apply to St Albans District Council for planning permission/approval of reserved matters in respect of the development specified in this application and the plans accompanying it.

Signed: [Redacted] Date: 9/8/96

On behalf of: Mr J. Clarke (if acting as agent)

PART I - GENERAL PARTICULARS to be completed in every case

1 APPLICANT (Block letters please) AGENT
(if any to whom all correspondence will be sent)

Surname: CLARKE Name: TEMPLARS BUILDING SURVEYORS LIMITED

Other Names: MR J Address: 22 HIGH STREET, BALDOCK

Address: THE WHITE BARN, COLNEY HEATH, ST ALBANS, HERTS. HERTS, SG7 6AX.

Address: COLNEY HEATH, ST ALBANS, HERTS.

Tel No: Tel No: 01462 490350

2 For what are you seeking permission or approval? Erection of stable building for
(Please give a full description of the proposal and purposes for which the land and/or buildings are to be used. If your proposal involves residential development please specify the number and type(s) of residential unit(s)) accommodating horses with associated grooming and storage facilities.

3 Address or location of the land or buildings involved in the application.
LAND TO SOUTH OF COLNEY HEATH FARM, COLNEY HEATH.

4 ANSWER THIS QUESTION YES OR NO YES/NO
Is the application accompanied by a fee? If YES, state amount
(See note 4 of the "Notes for Guidance of Applicants" and the schedule of current fees) If NO, indicate your reason for not doing so
Resubmission

5 What is the area of the whole of the site involved in the application?sq. metres or 10.9 hectares

6 ANSWER THIS QUESTION YES OR NO YES/NO
Does the applicant own or control any adjoining land? If yes, identify by colouring blue on the site plans.

7 a) What is the applicant's interest in the land or building(s)? e.g. owner, prospective purchaser, weekly tenant, lessee etc. a) OWNER
MAY 1995

b) When was that interest obtained? b)

c) If the applicant is a lessee, how many years of the lease remain? c).....N/A.....

8 ANSWER THIS QUESTION YES OR NO Does your application involve a change of use? YES/NO If YES, go straight to question 12 If NO, please answer all of the following questions.

9 ANSWER THIS QUESTION YES OR NO Is the application one for the approval of matters reserved by an earlier outline planning permission? YES/NO If YES, indicate the date and planning reference of the outline permission.
Date: N/A.....Ref No:5/.....

10 ANSWER THIS QUESTION YES OR NO Does this application seek outline planning permission only? YES/NO If NO, all of the details 1-5 below must be included for the application to be accepted.

11 Please indicate which of the following details are included in this application and which are not.

1 Siting of the building(s) included / ~~not included~~

2 Design included / ~~not included~~

3 External appearance (including materials) included / ~~not included~~

4 Means of access included / ~~not included~~ / none proposed

5 Landscaping (N.B. includes walls and fences - See Note 1 of the "Notes for the Guidance of Applicants" for definition) included / ~~not included~~ / none proposed

12 ANSWER THIS QUESTION YES OR NO Is your application one for the renewal of a permission previously granted for a temporary period? YES/NO If YES, indicate the date and reference of the previous permission.
Date:.....Ref No:5/.....

13 ANSWER THIS QUESTION YES OR NO Are you applying for planning permission to retain a building or to continue a use for which planning permission has not been granted, or to do either of these things without complying with a condition imposed on a previous planning permission? YES/NO If YES, indicate the date number and condition of any relevant previous permission.
Date:.....Ref No:5/.....
Condition No:.....

14 a) For what purpose(s) are the land and/or building(s) now used? a) Land used for horse grazing. No stable buildings exist at present.
(Give details if more than one use and if in residential use, state number of units).
b) What is the total floor area of the existing building(s)?
c) If land/building(s) are vacant, what were the last know uses and when did those uses cease?

15 Do the proposals involve: YES OR NO Delete as appropriate

a) New buildings? YES/NO^{xxx} If YES state floorspace proposed
(see Note 2 of Notes for the Guidance of Applicants) 150.....metres²

b) Change of use of land? YES/NO
If YES, state area involvedmetres²

c) Change of use of buildings? YES/NO
If YES, state floorspace involved.....metres²

d) An extension to an existing building YES/NO
If YES, state floorspace of
1. Existingmetres²
2. Extensionmetres²

e) Demolition of any existing building or part of a building? YES/NO
state floorspace demolishedmetres²

16 What number of cars can be garaged or parked on the site at present and what total number is proposed in this application?

	Garage	Parking
Existing	NONE	NONE
Proposed Total	NONE	NONE

17 a) How is access to be obtained to the site for: (i) Pedestrians? Via existing gate to Tollgate Road.
(ii) Vehicles? Via existing gate to Tollgate Road.

b) If by means of an existing access, is that access to be altered in any way? YES/NO
If so, please specify the alterations.
(i) Pedestrians?.....
(ii) Vehicles?.....

18 How will sewage and rainwater disposal be dealt with? Sewage: N/A
Rainwater: To soakaway

19 ANSWER THIS QUESTION YES OR NO Will any existing trees be felled or lopped or existing hedges removed? YES/NO
The following work which is shown on the submitted plan will be involved:
.....
.....
.....
If any trees/hedges are affected in any way then a tree survey will be required. Is a tree survey enclosed with this application? YES/NO N/A

20 ANSWER THIS QUESTION YES OR NO Will any public right of way be affected? YES/NO
(eg. definitive footpath, bridleway)
The following work which is shown on the submitted plan will be involved
.....
.....
.....

21 What materials (type and colour) are to be used in the external appearance of walls, windows, roofing and fences?

Walls: Timber boarding stain finish.
Windows: Timber Framed.
Roofing: Green mineralised felt.
Fencing: Post and rail.



TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING GENERAL
DEVELOPMENT ORDER 1988

CERTIFICATE A UNDER ARTICLE 12A

I certify that:

1. On the day 21 days before the date of the accompanying application nobody except the applicant, was the owner* of any part of the land to which the application relates.

2. None of the land to which the application relates is, or is part of, an agricultural holding.

Signed: [redacted] Date: 9.10.96

*On behalf of: M. J. Clarke

CERTIFICATE B UNDER ARTICLE 12A

I certify that:

1. *I have/The applicant has given the required notice to everyone else who, on the day 21 days before the date of the accompanying application, was the owner* of any part of the land to which the application relates.

Owner's name:

Address at which notice was served:

Date on which notice was served:

2. None of the land to which the application relates is, or is part of, an agricultural holding.

Signed:

*On behalf of:

**TOWN & COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION FOR SERVICE ON INDIVIDUALS
NOTICE UNDER ARTICLE 12A**

Proposed development at:

.....
(insert address or location of the proposed development)

I give notice that:

.....
(insert applicant's name)

is applying to the St Albans City and District Council for planning permission to:

.....
(insert description of proposed development)

Any owner* of the land who wishes to make representations about this application should write to the Council at the District Council Offices, Civic Centre, St Peters Street, St Albans AL1 3JE

by (insert 21 days after the date of service of the notice).

Signed:

*On behalf of:

Statement of owners' rights

The grant of planning permission does not affect owners' rights to retain or dispose of their property, unless there is some provision to the contrary in an agreement or in a lease.

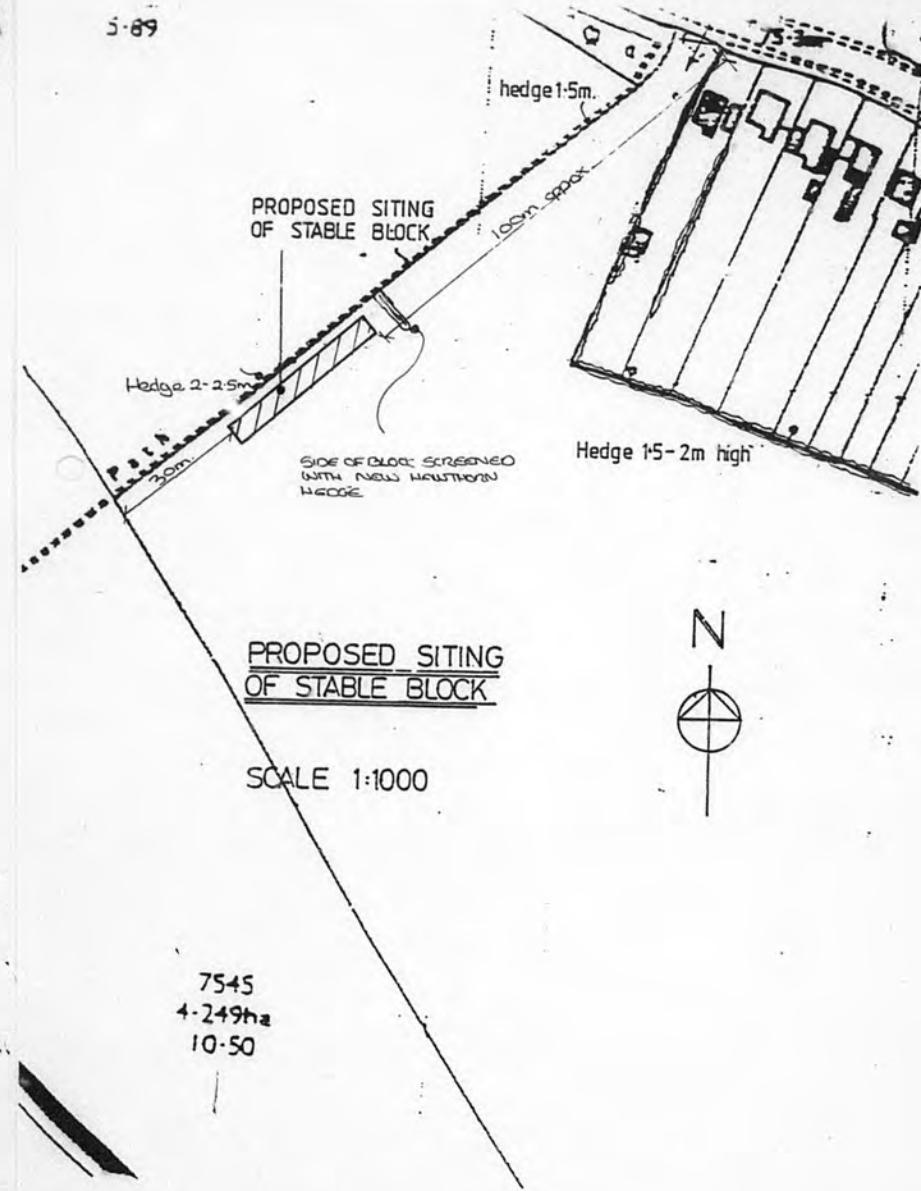
Statement of agricultural tenants' rights

The grant of planning permission for non-agricultural development may affect agricultural tenants' security of tenure.

*Delete where appropriate

Owner means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than 7 years, or, in the case of development consisting of the winning or working of minerals, a person entitled to an interest in a mineral in the land (other than oil, gas, gold or silver).

5-89



Appendix D

RECEIVED 17 OCT 1996

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.3

Ref No. 5/96/1240

TOWN & COUNTRY PLANNING ACT 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Templars Building Surveyors
22 High Street
Baldock
Herts
SG7 6AX

APPLICANT
Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts

Erection of stable with associated grooming and storage facilities

Land to South of Colney Heath Farm,
Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 9th August 1996 and received with sufficient particulars on 14th August 1996 and shown on the plan(s) attached subject to the following conditions:-

1. This permission shall be for a limited period expiring 3 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the building and works carried out under this permission shall be removed and the land cleared to the satisfaction of the District Planning Authority.
2. The development hereby permitted shall be carried out and completed in all respects in accordance with the plans hereby approved and/or any plan subsequently approved by the District Planning Authority prior to the first occupation of the approved development.
3. The use of the building hereby permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.
4. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
5. The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.

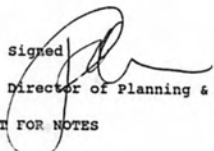
6. The development hereby permitted shall not be commenced until a scheme for landscaping, showing existing and proposed ground levels and including tree and/or shrub planting, seeding, paving and treatment of other hard surfaces, plant containers and raised beds (all indicating any existing trees and shrubs not otherwise affected by the proposed development and which are to be retained) has been approved in writing by the District Planning Authority. The landscape scheme shall be completed within 12 months of the bringing into use of any part of the approved development, unless the period is extended in writing by the District Planning Authority or unless the approved scheme specifically provides an alternative timetable.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:-

1. The proposed form of development is not appropriate for a permanent permission.
2. To ensure that the development will be carried out as approved and to avoid any detriment caused by works remaining uncompleted.
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.
6. To ensure satisfactory landscaping of the site in the interests of visual amenity.

Dated 8th October 1996

Signed


Director of Planning & Heritage

SEE ATTACHED SHEET FOR NOTES

MBM



Joint Circular from the
Department of the Environment
2 Marsham Street, London SW1P 3EB

Welsh Office
Cathays Park, Cardiff CF1 3NQ

20 July 1995

THE USE OF CONDITIONS IN PLANNING PERMISSIONS

1. DOE Circular 1/85 (WO 1/85) gave advice about the use of planning conditions. Much of that advice remains relevant, but it contains a number of references to legislation which has been replaced or amended since the Circular was published. This Circular brings these references up to date and incorporates additional policy guidance issued since 1985, for example, in Planning Policy Guidance Notes: in particular, it reflects guidance on the use of conditions in respect of transport, retail development, contaminated land, noise and affordable housing. Additional advice has been included in respect of design and landscape, lorry routing, 'granny' annexes, staff accommodation, access for disabled people, holiday occupancy, and nature conservation/endangered species (see Index for details). The Circular also takes account of court decisions and includes an expanded Appendix containing 'model' conditions.

2. The power to impose conditions when granting planning permission is very wide. If used properly, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. This Circular, with its Annex, sets out guidance on how this can be achieved.

3. Paragraphs 14-42 of the Annex, stress that conditions should only be imposed where they are both necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. Attention is particularly drawn to paragraphs 15-17 which advise that in considering whether a condition is necessary authorities should ask

themselves whether planning permission would have to be refused if the requirements of that condition were not imposed. If it would not, then the condition needs special and precise justification. Attention is also drawn to paragraph 29 of the Annex, alerting authorities to a judgment with important implications for enforcing planning conditions.

4. It is essential that the operation of the planning system should command public confidence. The sensitive use of conditions can improve development control and enhance that confidence. The use of conditions in an unreasonable way, however, so that it proves impracticable or inexpedient to enforce them, will damage such confidence and should be avoided.

5. When applications come to appeal, the Secretaries of State or Planning Inspectors welcome reasoned suggestions from the parties as to conditions which they would find acceptable if permission were granted. Such suggestions will be fully examined and may or may not be adopted, but conditions will not be imposed if they are considered to be invalid or if they are unacceptable on policy grounds.

6. Since July 1992, local planning authorities have been able to ensure compliance with many planning conditions by serving a breach of condition notice. Guidance about this type of notice is given in Annex 2 to DOE Circular 17/92 (WO 38/92). If a valid breach of condition notice is contravened, the resulting offence is open to summary prosecution. But the prosecution's case must always be proved on the criminal standard of proof ("beyond reasonable doubt"). Consequently, if the breach of condition notice procedure is to operate effectively, planning conditions must be formulated precisely. In the event of prosecution, the Magistrates' Court will then have no doubt about exactly what is required in order to comply with the terms of a planning condition.

7. This Circular does not include specific advice on policy on the use of planning conditions for the specialist subject of minerals workings or for most developments relating to waste management. Advice on conditions applicable to mineral developments is contained in the series of Minerals Planning Guidance Notes (MPGs) and on waste management development control in PPG 23: Planning and Pollution Control (England only).

8. This Circular repeats and brings up to date existing advice, and should therefore have no effect on local government manpower or expenditure.

9. Department of the Environment Circular 1/85 (WO 1/85) is now cancelled.

RICHARD JONES, *Assistant Secretary*
W P RODERICK, *Assistant Secretary*

application if they decide the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 73. Section 73 will not apply if the period in the previous condition limiting the duration within which the development could begin has now expired without the development having begun.¹

5. Section 73A of the Act provides, among other things, for retrospective planning applications to be made in respect of development which has been carried out without permission, and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject. Special consideration may need to be given to conditions imposed on planning permissions granted under section 73A. For example, the standard time-limiting condition will not be appropriate where development has begun before planning permission has been granted.

OTHER CONSTRAINTS

Policy and other constraints

6. The limits of the enabling powers are not the only constraints on the use of conditions. Conditions should normally be consistent with national planning policies as expressed in Government Circulars, Planning Policy Guidance notes, Minerals Policy Guidance Notes and other published material. They should also normally accord with the provisions of development plans and other policies of local planning authorities. Where a certain kind of condition is specifically endorsed by a development plan policy, however, it is still necessary to consider whether it is justified in the particular circumstances of the proposed development. In general, conditions which duplicate the effect of other legislation should not be imposed (see paragraphs 21-23 below).

PRACTICE

Role of informal discussions

7. Even before an application is made, informal discussions between an applicant and the local planning authority are very helpful. They can allow the applicant to formulate the details of a project so as to take full account of the authority's requirements, and assist the authority in making sure that those requirements are reasonable in the light of the development proposed. They can reduce the need for conditions, explore the possible terms of conditions which remain necessary, and ensure that these are tailored to the circumstances of the case.

"Standard conditions"

8. The compilation by local planning authorities of lists of model conditions can be of great benefit. They can improve the consistency of decisions, the use of staff resources, and the speed with which planning applications are processed. They may also, however, encourage the use of conditions as a

¹ However, it was held by Pill J in *R v Secretary of State for the Environment ex parte Corby BC* [1994] 1 P.L.R.38 that an application can be made under section 73 after the period for approval of reserved matters on an outline planning permission has expired but before the expiry of the period for commencement of development.

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PLANNING OBLIGATIONS

12. It may be possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission or by entering into a planning obligation under section 106 of the Act. The Secretaries of State consider that in such cases the local planning authority should impose a condition rather than seek to deal with the matter by means of a planning obligation. This is because the imposition of restrictions by means of a planning obligation deprives the developer of the opportunity of seeking to have the restrictions varied or removed by an application or appeal under Part III of the Act if they are or become inappropriate or too onerous. It should be noted, however, that section 106A of the Act allows a developer to apply to the local planning authority to discharge or modify a planning obligation after the expiry of five years after the obligation is entered into—for further advice see DOE Circular 28/92 (WO 66/92).

13. Where conditions are imposed on a planning permission they should not be duplicated by a planning obligation. Permission cannot be granted subject to a condition that the applicant enters into a planning obligation under section 106 of the Act or an agreement under other powers.

TESTS

Six tests for conditions

14. On a number of occasions the courts have laid down the general criteria for the validity of planning conditions. In addition to satisfying the court's criteria for validity, the Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be

(i) necessary;

(ii) relevant to planning;

(iii) relevant to the development to be permitted;

(iv) enforceable;

(v) precise; and

(vi) reasonable in all other respects.

NEED FOR A CONDITION

15. In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification. The argument that a condition will do

no harm is no justification for its imposition: as a matter of policy, a condition ought not to be imposed unless there is a definite need for it. The same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so.

16. In some cases a condition is clearly unnecessary, such as where it would repeat provisions in another condition imposed on the same permission. In other cases the lack of need may be less obvious, and it may help to ask whether it would be considered expedient to enforce against a breach—if not, then the condition may well be unnecessary.

17. Conditions should be tailored to tackle specific problems, rather than impose unjustified controls. In so far as a condition is wider in its scope than is necessary to achieve the desired objective, it will fail the test of need. Where an extension to a dwellinghouse in a particular direction would be unacceptable, for example, a condition on the permission for its erection should specify that, and not simply remove all rights to extend the building. Permissions should not be overloaded with conditions, however: it might be appropriate for example, to impose on a permission in a conservation or other sensitive area a requirement that all external details and materials should be in complete accordance with the approved plans and specifications, rather than recite a long list of architectural details one by one.

Completion of development

18. Conditions requiring development to be carried out in its entirety, or in complete accordance with the approved plans, often fail the test of need by requiring more than is needed to deal with the problem they are designed to solve. If what is really wanted is simply to ensure that some particular feature or features of the development are actually provided or are finished in a certain way, specific conditions to this end (for example, model conditions 17 and 22) are far preferable to a general requirement.

19. The absence of a specific condition does not prevent enforcement action being taken against development which differs materially from the approved design. However, it may well be easier for local planning authorities to enforce compliance with a condition that has been breached, than to enforce on the basis of a material variation from the approved plans or description of development. Where an application includes information, for example on likely hours of working, which significantly influence the planning decision, it may therefore be appropriate to include a specific condition to ensure compliance with the restrictions.

RELEVANCE TO PLANNING

20. A condition which has no relevance to planning is *ultra vires*. A condition that the first occupants of dwellings must be drawn from the local authority's housing waiting list, for example, would be improper because it was meant to meet the ends of the local authority as housing authority and was not imposed for planning reasons (but see paragraph 97 below). Although

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a condition can quite properly require the provision of open space to serve the permitted development (as part of a housing estate for example) it would be *ultra vires* if it required the open space to be dedicated to the public; other conditions affecting land ownership (requiring, for example, that the land shall not be disposed of except as a whole) would similarly be *ultra vires*.

Other planning controls

21. Some matters are the subject of specific control elsewhere in planning legislation, for example advertisement control, listed building consent or tree preservation. If these controls are relevant to the development the authority should normally rely on them, and not impose conditions on a grant of planning permission to achieve the purposes of a separate system of control (but on trees note paragraph 51 below).

New planning controls

22. Other matters are subject to control under separate legislation, yet also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary, and one whose requirements conflict with those of other controls will be *ultra vires* because it is unreasonable. For example, a planning condition would not normally be appropriate to control the level of emissions from a proposed development where they are subject to pollution control, but may be needed to address the impact of the emissions to the extent that they might have land-use implications and are not controlled by the appropriate pollution control authority (for further advice on conditions and pollution see paragraphs 3.23-3.28 of PPG23: Planning and Pollution Control) (England only). A condition cannot be justified on the grounds that the local planning authority is not the body responsible for exercising a concurrent control, and therefore cannot ensure that it will be exercised properly. Nor can a condition be justified on the grounds that a concurrent control is not permanent but is subject to expiry and renewal (as, for example, with certain licences). Nor, as a matter of policy, should conditions be imposed in order to avoid a liability to pay compensation under other legislation. Even where a condition does not actually duplicate or conflict with another control, differences in requirements can cause confusion, and it will be desirable as far as possible to avoid solving problems by the use of conditions instead of, or as well as, by another more specific control.

23. Where other controls are also available, a condition may, however, be needed when the considerations material to the exercise of the two systems of control are substantially different, since it might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives. Conditions may also be needed to deal with circumstances for which a concurrent control is unavailable. A further case where conditions may be justified will be where they can prevent development being carried out in a manner which would be likely to give rise to onerous requirements under other powers at a later stage (eg. to ensure adequate sewerage and water supply for new developments and thus avoid subsequent intervention under the Public Health Acts).

RELEVANCE TO THE DEVELOPMENT TO BE PERMITTED

24. Unless a condition fairly and reasonably relates to the development to be permitted, it will be *ultra vires*.

25. Thus it is not sufficient that a condition is related to planning objectives: it must also be justified by the nature of the development permitted or its effect on the surroundings. For example, if planning permission is being granted for the alteration of a factory building, it would be wrong to impose conditions requiring additional parking facilities to be provided for an existing factory simply to meet a need that already exists, and similarly wrong to require the improvement of the appearance or layout of an adjoining site simply because it is untidy or congested; despite the desirability of these objectives in planning terms, the need for the action would not be created by the new development. Nevertheless it is proper for conditions to secure satisfactory access, for example, or parking facilities, genuinely required by the users of the proposed development. Conditions can also be proper where the need for them arises out of the effects of the development rather than its own features; where a permission will result in intensification of industrial use of a site, for instance, a condition may be necessary requiring additional sound-insulation in the existing factory buildings. It may even be justifiable to require by condition that an existing building be demolished—perhaps where to have both would result in the site being over-intensively developed.

ABILITY TO ENFORCE

26. A condition should not be imposed if it cannot be enforced. It is often useful to consider what means are available to secure compliance with a proposed condition. There are two provisions which authorities may use to enforce conditions: an enforcement notice, under section 172 of the Act, or a breach of condition notice under section 187A. (Detailed advice about breach of condition notices is in Annex 2 of DOE Circular 17/92 (WO Circular 38/92)). Precision in the wording of conditions will be vital when it comes to enforcement (see paragraph 27 below).

Practicality of enforcement

27. Sometimes a condition will be unenforceable because it is in practice impossible to detect a contravention. More commonly it will merely be difficult to prove a breach of its requirements. For example, a condition imposed for traffic reasons restricting the number of persons resident at any one time in a block of flats would be impracticable to monitor, and pose severe difficulties in proving a contravention. However, where a condition is intended to prevent harm to the amenities of an area which is clearly likely to result from the development (for example, a condition requiring an amusement centre to close at a certain time in the evening), it will not usually be difficult to monitor, as those affected by contravention of its requirements are likely to be able to provide clear evidence of any breaches.

Whether compliance is reasonable

28. A condition may raise doubt about whether the person carrying out the development to which it relates can reasonably be expected to comply with it. If not, subsequent enforcement action is likely to fail on the ground that what is required cannot reasonably be enforced. One type of case where this might

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happen is where a condition is imposed requiring the carrying out of works (eg. construction of means of access) on land within the application site but not, at the time of the grant of planning permission, under the control of the applicant. If the applicant failed to acquire an interest in that land, and carried out the development without complying with the conditions, the local planning authority could enforce the condition only by taking action against the third party who owned the land to which the condition applied, and who had gained no benefit from the development. Such difficulties can usually be avoided by framing the condition so as to require that the development authorised by the permission should not commence until the access has been constructed.

Enforcing conditions imposed on permission for operational development

29. An otherwise legally sound condition may prove unenforceable because it is imposed on a grant of planning permission for the carrying out of operations which have not been carried out in accordance with the approved plans. Authorities should take into account the Court of Appeal's judgment in the case of *Handoll and Others v Warner Goodman and Street (A Firm) and Others*, (1995) 25 EG 157, which held that the judgment of the Divisional Court in *Kerrier DC v Secretary of State for the Environment and Brewer* (1980) 41 P&CR 284, had been wrongly decided. Both cases concerned a planning permission for the erection of a dwelling subject to an agricultural occupancy condition.²

TEST OF PRECISION

30. The framing of conditions requires care, not least to ensure that a condition is enforceable. A condition, for example, requiring only that "a landscape scheme shall be submitted for the approval of the local planning authority" is incomplete, since if the applicant were to submit the scheme, even if it is approved, the local planning authority is unlikely to be able to require the scheme to be implemented. In such a case the requirement that needs to be imposed is that landscape work shall be carried out in accordance with a scheme to be approved in writing by the local planning authority; and the wording of the condition must clearly require this. A condition of this kind also sets no requirement as to the time or the stage of development by which the landscape work must be done, which can similarly lead to enforcement difficulties. Conditions which require specific works to be carried out should state clearly when this must be done.

² The apparent consequences of the Court of Appeal's judgment in the *Handoll* case are that

- (1) where operational development is carried out in a way which differs materially from approved plans, it amounts to development without planning permission; and
- (2) any conditions imposed on the planning permission for those operations are unenforceable because the particular planning permission has not been implemented.

Authorities should ensure, in any case where planning permission has been granted for the carrying-out of operations subject to conditions, that the operations do not differ materially from the approved plans. If there is a material difference, they will need to consider seeking a specific application for planning permission to authorise the operations and granting the permission within four years of the substantial completion of those operations. They could then impose the same conditions on that permission. Alternatively, they may wish to consider taking enforcement action to remedy the breach, or to require the development to comply with the terms of the permission, if they intend to enforce the conditions.

Vague Conditions

31. A condition which is not sufficiently precise for the applicant to be able to ascertain what must be done to comply with it is *ultra vires* and cannot be imposed. Vague expressions which sometimes appear in conditions, for example such as "keep the buildings in a tidy state", or "so as not to cause annoyance to nearby residents", give occupants little idea of what is expected of them. Conditions should not be made subject to qualifications such as "if called upon to do so", or "if the growth of traffic makes it desirable", which do not provide any objective and certain criteria by which the applicant can ascertain what is required.

Discretionary or vetting conditions

32. Conditions which attempt to provide for an arbiter to interpret such expressions or qualifications do not avoid this difficulty. Conditions requiring that tidiness, for example, shall be "to the satisfaction of the local planning authority" make the applicant no more certain of just what is required. Conditions which are imprecise or unreasonable cannot be made acceptable by phrases such as "except with the prior approval of the local planning authority" which purport to provide an informal procedure to waive or modify their effect. Similarly, conditions restricting the occupation of a building should not set up a vetting procedure for prospective occupiers. Conditions which raise these difficulties, however, are not to be confused with conditions which require the submission of a scheme or details for approval which will, when granted, provide the precise guidelines to be followed by the developer (see paragraph 47 below). Nor should they be confused with occupancy conditions which follow the specific criteria on affordable housing included in a development plan, if these are imposed to ensure that the housing provided is used as intended, where a different planning decision might have been taken if the proposed development did not provide for affordable housing.

Clarity

33. Conditions should be not only precise but also clear. Where a precise condition may be difficult to follow, it may be helpful to attach to the permission an illustrative plan (eg. describing sight lines required at the entrance to an access road).

REASONABLENESS

34. A condition can be *ultra vires* on the grounds of unreasonableness, even though it may be precisely worded and apparently within the powers available.

Conditions invalid on grounds of unreasonableness

35. A condition may be unreasonable because it is unduly restrictive. Although a condition may in principle impose a continuing restriction on the use of land (provided that there are good planning reasons for that restriction), such a condition should not be imposed if the restriction effectively nullifies the benefit of the permission. For example, it would normally be reasonable to restrict the hours during which an industrial use may be carried on if the use of the premises outside these hours would affect

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the amenities of the neighbourhood, but it would be unreasonable to do so to such an extent as to make it impossible for the occupier to run the business properly. If it appears that a permission could be given only subject to conditions that would be likely to be held unreasonable by the courts then it will be necessary to refuse permission altogether.

Avoidance of onerous requirements

36. Even where a condition would not be so unreasonably restrictive as to be *ultra vires*, it may still be so onerous that as a matter of policy it should be avoided. Any condition which would put a severe limitation on the freedom of owners to dispose of their property, or which would obviously make it difficult to finance the erection of the permitted building by borrowing on mortgage, should be avoided on these grounds. An unduly restrictive condition can never be made acceptable by offering the prospect of informal relaxation of its effect (see paragraph 32 above).

Control over land

37. Particular care needs to be taken over conditions which require works to be carried out on land in which the applicant has no interest at the time when planning permission is granted. If the land is included in the site in respect of which the application is made, such conditions can in principle be imposed, but the authority should have regard to the points discussed in paragraph 28 above. If the land is outside that site, a condition requiring the carrying out of works on the land cannot be imposed unless the authority are satisfied that the applicant has sufficient control over the land to enable those works to be carried out (see, however, paragraphs 38-41 below).

Conditions depending on others' actions

38. It is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with themselves, or which they could comply with only with the consent or authorisation of a third party (for example, a condition which requires an aerodrome owner to impose a particular pattern of aircraft flight routings, where air traffic services for the particular aerodrome are the responsibility of the Civil Aviation Authority or the National Air Traffic Service). Similarly, conditions which require the applicant to obtain an authorisation from another body (such as Her Majesty's Inspectorate of Pollution) should not be imposed.

39. Although it would be *ultra vires*, however, to require works which the developer has no power to carry out, or which would need the consent or authorisation of a third party, it may be possible to achieve a similar result by a condition worded in a negative form, prohibiting development until a specified action has been taken.

conditions therefore should normally be avoided unless there are sound planning reasons to impose them. For example, in the case of retail development, it may be appropriate to impose conditions to control the number or size of units to prevent the development being subdivided into a large number of outlets (or vice versa), if the effect of such a change would be to change significantly the nature of the retail development to one that would not have been given permission, or would increase the need for parking or alter significantly the traffic and transport impact of the proposal.

Retail development

107. Retail parks can change their composition over time. If such a change would create a development that the planning authority would have refused on the grounds of impact on vitality and viability of an existing town centre, it may be sensible to consider the use of planning conditions to ensure that these developments do not subsequently change their character unacceptably. Any conditions imposed should apply only to the main ranges of goods (eg. food and convenience goods, hardware, electrical goods, furniture and carpets) and should not seek to control details of particular products to be sold. For further advice see PPG6: Town Centres and Retail Development.

TEMPORARY PERMISSIONS

108. Section 72(1)(b) of the Act gives power to impose conditions requiring that a use be discontinued or that buildings or works be removed at the end of a specified period (where permission is granted for the development of the operational land of a statutory undertaker, however, this power does not apply except with the undertaker's consent: section 267 of the Act). Conditions of this kind are sometimes confused with conditions which impose a time-limit for the implementation of a permission (paragraphs 53-60 above), but they are quite distinct, and different considerations arise in relation to them.

Principles applying to temporary permissions

109. Advice on minerals permissions is given in Minerals Policy Guidance notes. In other cases, in deciding whether a temporary permission is appropriate, three main factors should be taken into account. First, it will rarely be necessary to give a temporary permission to an applicant who wishes to carry out development which conforms with the provisions of the development plan. Next, it is undesirable to impose a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent. Lastly, the material considerations to which regard must be had in granting any permission are not limited or made different by a decision to make the permission a temporary one. Thus, the reason for granting a temporary permission can never be that a time-limit is necessary because of the effect of the development on the amenities of the area. Where such objections to a development arise they should, if necessary, be met instead by conditions whose requirements will safeguard the amenities. If it is not possible to devise such conditions, and if the damage to amenity cannot be

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accepted, then the only course open is to refuse permission. These considerations will mean that a temporary permission will normally only be appropriate either where the applicant proposes temporary development, or when a trial run is needed in order to assess the effect of the development on the area.

Short-term buildings or uses

110. Where a proposal relates to a building or use which the applicant is expected to retain or continue only for a limited period, whether because they have specifically volunteered that intention, or because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified. For example, permission might reasonably be granted on an application for the erection of a temporary building to last seven years on land which will be required for road improvements eight or more years hence, although an application to erect a permanent building on the land would normally be refused.

Trial runs

111. Again, where an application is made for permanent permission for a use which may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the authority to be sure of its character or effect, it might be appropriate to grant a temporary permission in order to give the development a trial run, provided that such a permission would be reasonable having regard to the capital expenditure necessary to carry out the development. However, a temporary permission would not be justified merely because, for example, a building is to be made of wood rather than brick. Nor would a temporary permission be justified on the grounds that, although a particular use, such as a hostel or playgroup, would be acceptable in a certain location, the character of its management may change. In certain circumstances it may be possible to grant temporary permission for the provision of a caravan or other temporary accommodation where there is some evidence to support the grant of planning permission for an application for an agricultural or forestry dwelling, but it is inconclusive, perhaps because there is doubt about the sustainability of the proposed enterprise. This allows time for such prospects to be clarified.

112. A second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the first permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where highway or redevelopment proposals have been postponed, or in cases of hardship where temporary instead of personal permission has been granted for a change of use.

Restoration of sites

113. If the temporary permission is for development consisting of or including the carrying out of operations, it is important to make provision by condition for the removal of any buildings and works permitted—not merely for the cessation of the use—and for the reinstatement of the land, when the

APPENDIX F

16. 5/96/1240 OUTLINE

MR J CLARKE - ERECTION OF STABLES WITH ASSOCIATED GROOMING AND STORAGE FACILITIES - LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD, COLNEY

14.8.96

Background

The site is located on the southern side of Tollgate Road access to which is adjacent to No 42 Tollgate Road, a residential property. There is a public footpath from this access following the NW boundary of the field which is marked by a 2.5m high hedge.

It is proposed to erect a stable block 39m long and 5.4m wide along the NW field boundary some 95m from the access with Tollgate Road. At its nearest point, the proposal would be 40m from the end of the rear garden of No 42 Tollgate Road and 110m from the River Colne. The stables would be 3.3m in height and would contain seven stable units together with grooming and storage facilities. They would be constructed of stained timber boarding with a green mineralised felt roof. It is proposed to plant hawthorn hedging to the north east of the stables to screen them from nearby properties and the road.

The site is within the Metropolitan Green Belt.

Relevant Planning Policy

St Albans District Local Plan Review 1994

Policy 1 Metropolitan Green Belt

Policy 69 General Design and Layout

Policy 96 Medium Intensity Leisure Uses in the Green Belt

Relevant Planning History

5/96/0787 - Erection of stable. Refused 22 July 1996 for the following reason:-

"By reason of its size and siting and in particular its proximity close the boundary of No 42 Tollgate, the proposed development would be likely to have an overbearing impact on the occupiers of that property to the detriment of their amenity and to the amenity of the area in general. The proposal would conflict with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

Representations

Colney Heath Parish Council:

Any representations received will be reported orally at the meeting.

Advertisement:

The application was advertised as minor development. The advert expired on 19 September 1996.

SOUL
7/10/96

Adjoining Occupiers:

42, 44, 46, 52, 80 and 106 Tollgate Road, 9 and 11 Fellowes Lane and Tollgate Farm. Notified 16.8.96.

Letters of objection have been received from 44 and 46 Tollgate Road making the following observations:-

1. The proposal is too close to residential properties resulting in nuisance from noise, and smell;
2. The access from Tollgate Road is inadequate;
3. The proposal would be visually obtrusive;
4. The stables should be positioned among the buildings at Colney Heath Farm.

Consultations:

Director of Technical Services notified 16.8.96. No highway objections or concerns regarding the footpath raised. Any comments concerning landscaping will be reported orally at the meeting.

Environment Agency notified 16.8.96. No objection in principle subject to conditions regarding disposal of waste and drainage.

Hertfordshire Environmental Records Centre notified 3.9.96. They are satisfied that the ecological interests of this site should not be compromised.

Discussion

The erection of stables is considered acceptable development within the Metropolitan Green Belt as long as it integrates with the existing landscape.

The proposed positioning, materials and hedging would ensure that the stables would not be unduly obtrusive within the landscape, thus complying with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

The previous application (5/96/0787) was refused because of proximity to residential properties in Tollgate Road and the resulting impact and loss of amenity to the occupiers of No 42. This has been addressed by the relocation of the proposed stables to a site some 40m away from the residential properties, while maintaining a distance from the flood plain of the River Colne and convenient access onto Tollgate Road.

Recommendation - GRANT

Conditions:

1. C14 (Limited Period - building and use) 3 years
2. C30 (Completed Development)
3. The use of the building hereby permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.

4. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
5. The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.

Reasons:

1. R14
2. R30
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.

Decision Notice Code: A1 Plan Nos: T800 and site location plan.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Report written: 20.9.96

Bibliography

Title of Background Documents
St Albans District Local Plan Review, 1994

Custodian
& Tel No
Mrs W Burt
01727 866100
Ext 2347

File Location
Council Offices
Civic Centre
St Peters Street
St Albans, Herts
AL1 3JE

Relevant Previous Planning Decisions

5/96/0787 Erection of stable. Refused 22.7.96

Consultations

Director of Technical Services 20.8.96
Environment Agency 22.8.96
Environmental Records Centre 18.9.96

Third Party Responses

Lynn D Skelt, 44 Tollgate Road, 5.9.96
Mr N Nichollas, 46 Tollgate Road, 6.9.96

COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.3

Ref No. 5/96/1240

TOWN & COUNTRY PLANNING ACT 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Templars Building Surveyors
Ltd
22 High Street
Baldock
Herts
SG7 6AX

APPLICANT
Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts

Erection of stable with associated grooming and storage facilities

Land to South of Colney Heath Farm,
Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 9th August 1996 and received with sufficient particulars on 14th August 1996 and shown on the plan(s) attached subject to the following conditions:-

1. This permission shall be for a limited period expiring 3 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the building and works carried out under this permission shall be removed and the land cleared to the satisfaction of the District Planning Authority.
2. The development hereby permitted shall be carried out and completed in all respects in accordance with the plans hereby approved and/or any plan subsequently approved by the District Planning Authority prior to the first occupation of the approved development.
3. The use of the building hereby permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.
4. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
5. The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.

6. The development hereby permitted shall not be commenced until a scheme for landscaping, showing existing and proposed ground levels and including tree and/or shrub planting, seeding, paving and treatment of other hard surfaces, plant containers and raised beds (all indicating any existing trees and shrubs not otherwise affected by the proposed development and which are to be retained) has been approved in writing by the District Planning Authority. The landscape scheme shall be completed within 12 months of the bringing into use of any part of the approved development, unless the period is extended in writing by the District Planning Authority or unless the approved scheme specifically provides an alternative timetable.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:-

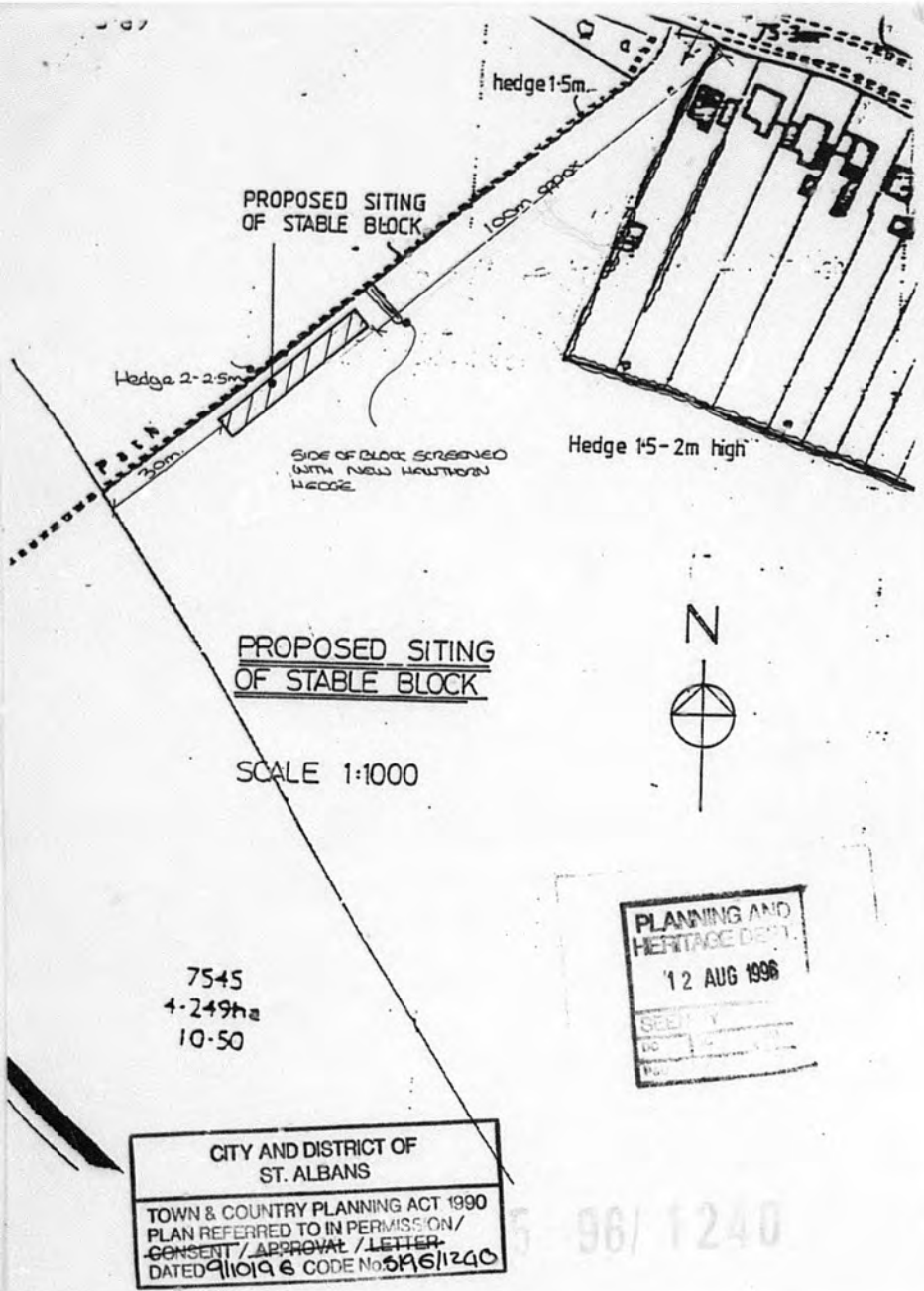
1. The proposed form of development is not appropriate for a permanent permission.
2. To ensure that the development will be carried out as approved and to avoid any detriment caused by works remaining uncompleted.
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.
6. To ensure satisfactory landscaping of the site in the interests of visual amenity.

Dated 8th October 1996

Signed 
Director of Planning & Heritage

SEE ATTACHED SHEET FOR NOTES

MAN



TOWN AND COUNTRY PLANNING
ACT 1990
SECTION 78(1) APPEAL

CITY AND DISTRICT COUNCIL OF ST ALBANS

APPEAL BY MR J CLARKE UNDER SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT 1990 AGAINST THE CONDITIONS IMPOSED BY THE CITY AND DISTRICT OF ST ALBANS IN RESPECT OF THE GRANT OF PLANNING PERMISSION FOR THE ERECTION OF A STABLE WITH ASSOCIATED GROOMING AND STORAGE FACILITIES AT TOLLGATE ROAD, COLNEY HEATH.

DISTRICT PLANNING AUTHORITY REFERENCE: 5/96/1240
DISTRICT SECRETARY AND SOLICITOR REFERENCE: P/APP/1461
PLANNING INSPECTORATE REFERENCE: APP/B1930/A/97/279137

1.0 PLANNING BACKGROUND

- 1.1 The site is located on the southern side of Tollgate Road access to which is adjacent to No. 42 Tollgate Road, a residential property. There is a public footpath from this access following the NW boundary of the field which is marked by a 2.5m high hedge.
- 1.2 It is proposed to erect a stable block 39m long and 5.4m wide along the NW field boundary some 95m from the access with Tollgate Road. At its nearest point, the proposal would be 40m from the end of the rear garden of No. 42 Tollgate Road and 110m from the River Colney. The stables would be 3.3m in height and would contain seven stable units together with grooming and storage facilities. They would be constructed of stained timber boarding with a green mineralised felt roof. It is proposed to plant hawthorn hedging to the north east of the stables to screen them from nearby properties and the road.

The site is within the Metropolitan Green Belt.

1.3 Relevant Planning Policy

- 1.4 St Albans District Local Plan Review 1994:-

Policy 1 - Metropolitan Green Belt
Policy 69 - General Design and Layout
Policy 96 - Medium Intensity Leisure Uses in the Green Belt.

1.5 Relevant Planning History

5/96/0787 - Erection of stable. Refused 22 July 1996 for the following reason:-

"By reason of its size and siting and in particular its proximity close to the boundary of No. 42 Tollgate, the proposed development would be likely to have an overbearing impact on the occupiers of that property to the detriment of their amenity and to the amenity of the area in general. The proposal would conflict with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994".

- 1.6 The proposal was advertised on 29th August 1996.

1.7 Following a neighbour notification exercise, a number of objections were received from 44 and 45 Tollgate Road. The following concerns were expressed:-

1. The proposal is too close to residential properties resulting in nuisance from noise, and smell;
2. The access from Tollgate Road is inadequate;
3. The proposal would be visually obtrusive;
4. The stables should be positioned among the buildings at Colney Heath Farm.

1.8 The following consultation responses were received.

Director of Technical Services:

Notified 16.8.96. No highway objections or concerns regarding the footpath raised.

Environment Agency:

Notified 16.8.96. No objection in principle subject to conditions regarding disposal of waste and drainage.

Hertfordshire Environmental Records Centre:

Notified 3.9.96. They are satisfied that the ecological interests of this site should not be compromised.

1.9 The proposal was considered at the meeting of the Council's Plans (South) Sub Committee held on 7.10.96. Members resolved to grant a 3 year temporary permission subject to conditions relating to the use of the building and drainage matters.

1.10 The appeal relates to Condition 1 of the permission which states:-

This permission shall be for a limited period expiring 3 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the building and works

carried out under this permission shall be removed and the land cleared to the satisfaction of the District Planning Authority.

1.11 The reason for the condition is as follows:-

"The proposed form of development is not appropriate for a permanent position".

2.0 EXPLANATORY COMMENTS

2.1 The District Planning Authority considered that the sole issue in this case is the justification for granting planning permission on a three year temporary basis.

2.2 Consideration has been given by the District Planning Authority to the provisions of Circular 11/95 relating to the use of conditions in planning permission.

2.3 The District Planning Authority recognises that conditions need to be necessary, relevant to planning, relevant to the development permitted, enforceable, precise, and reasonable in all other respects. It is considered that the condition which is the subject of this appeal meets all these criteria.

2.4 The condition is tailored to tackle the specific problem that the building of shortlived materials in the Metropolitan Green Belt, and is not appropriate form of development for a permanent planning permission. The building is to be of timber construction.

2.5 The grant of a temporary planning permission would enable the District Planning Authority to reassess the position at the end of a three year period. The three years would enable the applicant to establish the stables on the site.

2.6 By the nature of their construction and materials, the intention of the buildings to be permanent must be questioned.

3.0 OBSERVATIONS ON APPELLANTS GROUNDS OF APPEAL

3.1 With regard to the content of paragraph 3.0, there is no reference in the application form or plan submitted to the word permanent.

3.2 The proposal was considered fully against the provisions of the Hertfordshire County Structure Plan Review incorporating Approval Alterations 1991.

3.3 The proposal was considered fully against the provisions of the St Albans District Local Plan Review 1994, including those relating to the Metropolitan Green Belt and leisure uses.

3.4 The District Planning Authority has given fully consideration to the provisions of Circular 11/95 relating to the use of conditions. It is considered that the grant of a three year temporary permission for a building of short lived materials in a prominent position within the Metropolitan Green Belt is reasonably necessary and relevant, and meets all the criteria specified in the circular.

4.0 CONCLUSION

4.1 In support of its attachment of Condition 1 to planning permission 5/96/1240 for a stable block of short lived materials, the District Planning Authority would reaffirm the importance of an opportunity to re-assess the proposal after a reasonable three year period. The Authority consider that the condition is reasonable, enforceable, and necessary and complies with the criteria outlined in Circular 11/95.

4.2 The Inspector is respectfully requested to retain the condition and enable the Authority to further assess the situation in 3 years.

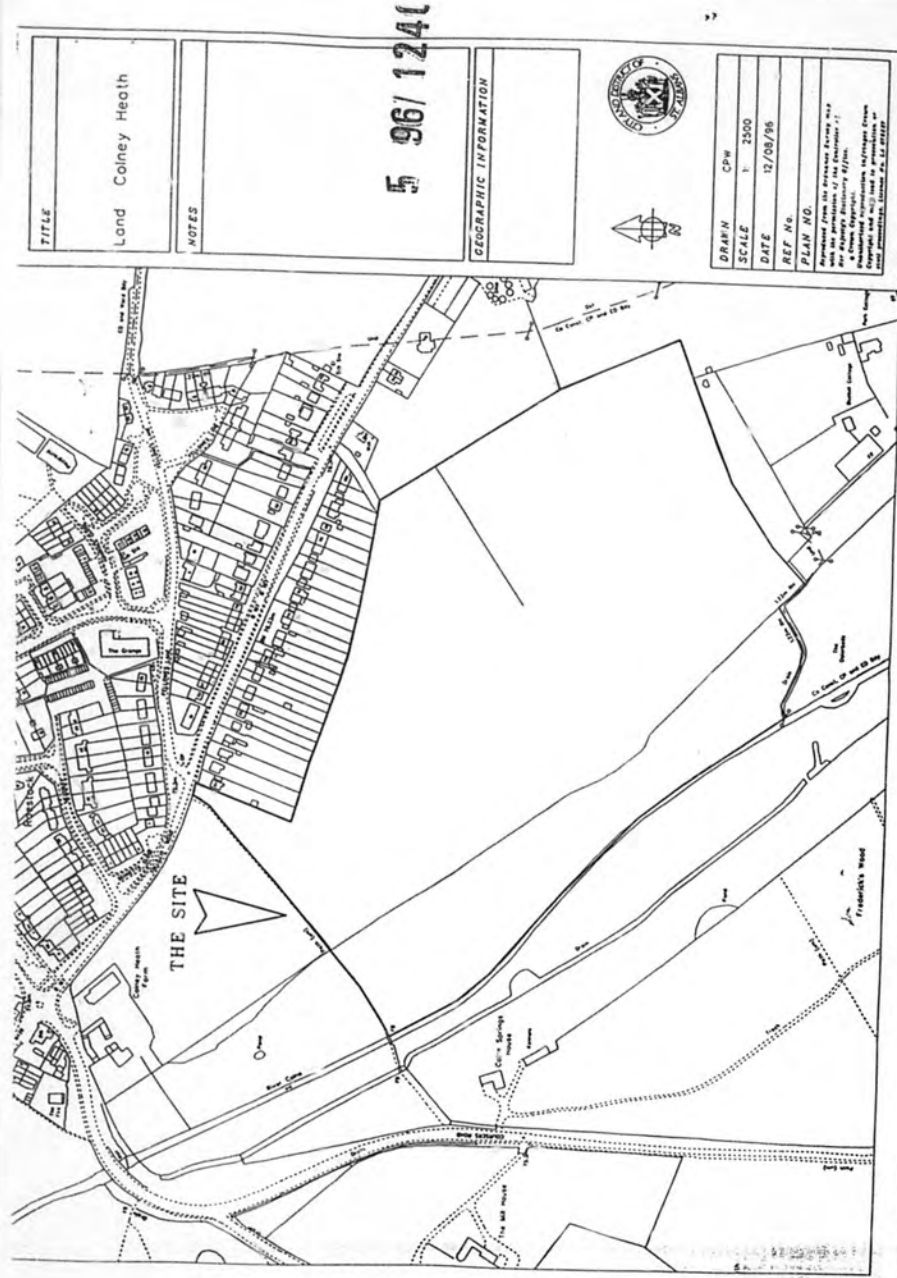
APPENDICES

1.0 SITE PLAN

2.0 DECISION NOTICE

3.0 OFFICERS REPORT

APPENDIX 1



APPENDIX 2

COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.3

Ref No. 5/96/1240

TOWN & COUNTRY PLANNING ACT 1990
CITY AND DISTRICT OF ST ALBANS

AGENT

Templars Building Surveyors
Ltd
22 High Street
Baldock
Herts
SG7 6AX

APPLICANT

Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts

Erection of stable with associated grooming
and storage facilities

Land to South of Colney Heath Farm,
Coursers Road, Colney Heath

In pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 9th August 1996 and received with sufficient particulars on 14th August 1996 and shown on the plan(s) attached subject to the following conditions:-

1. This permission shall be for a limited period expiring 3 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the building and works carried out under this permission shall be removed and the land cleared to the satisfaction of the District Planning Authority.
2. The development hereby permitted shall be carried out and completed in all respects in accordance with the plans hereby approved and/or any plan subsequently approved by the District Planning Authority prior to the first occupation of the approved development.
3. The use of the building hereby permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.
4. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
5. The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.

6. The development hereby permitted shall not be commenced until a scheme for landscaping, showing existing and proposed ground levels and including tree and/or shrub planting, seeding, paving and treatment of other hard surfaces, plant containers and raised beds (all indicating any existing trees and shrubs not otherwise affected by the proposed development and which are to be retained) has been approved in writing by the District Planning Authority. The landscape scheme shall be completed within 12 months of the bringing into use of any part of the approved development, unless the period is extended in writing by the District Planning Authority or unless the approved scheme specifically provides an alternative timetable.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:-

1. The proposed form of development is not appropriate for a permanent permission.
2. To ensure that the development will be carried out as approved and to avoid any detriment caused by works remaining uncompleted.
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.
6. To ensure satisfactory landscaping of the site in the interests of visual amenity.

Dated 8th October 1996

Signed 

Director of Planning & Heritage

SEE ATTACHED SHEET FOR NOTES

MBM

South
7/10/96

16. 5/96/1240 OUTLINE

MR J CLARKE - ERECTION OF STABLES WITH ASSOCIATED GROOMING AND STORAGE FACILITIES - LAND TO SOUTH OF COLNEY HEATH FARM, COURSERS ROAD, COLNEY

14.8.96

Background

The site is located on the southern side of Tollgate Road access to which is adjacent to No 42 Tollgate Road, a residential property. There is a public footpath from this access following the NW boundary of the field which is marked by a 2.5m high hedge.

It is proposed to erect a stable block 39m long and 5.4m wide along the NW field boundary some 95m from the access with Tollgate Road. At its nearest point, the proposal would be 40m from the end of the rear garden of No 42 Tollgate Road and 110m from the River Colne. The stables would be 3.3m in height and would contain seven stable units together with grooming and storage facilities. They would be constructed of stained timber boarding with a green mineralised felt roof. It is proposed to plant hawthorn hedging to the north east of the stables to screen them from nearby properties and the road.

The site is within the Metropolitan Green Belt.

Relevant Planning Policy

St Albans District Local Plan Review 1994

Policy 1 Metropolitan Green Belt

Policy 69 General Design and Layout

Policy 96 Medium Intensity Leisure Uses in the Green Belt

Relevant Planning History

5/96/0787 - Erection of stable. Refused 22 July 1996 for the following reason:-

"By reason of its size and siting and in particular its proximity close the boundary of No 42 Tollgate, the proposed development would be likely to have an overbearing impact on the occupiers of that property to the detriment of their amenity and to the amenity of the area in general. The proposal would conflict with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

Representations

Colney Heath Parish Council:

Any representations received will be reported orally at the meeting.

Advertisement:

The application was advertised as minor development. The advert expired on 19 September 1996.

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Adjoining Occupiers:

42, 44, 46, 52, 80 and 106 Tollgate Road, 9 and 11 Fellowes Lane and Tollgate Farm. Notified 16.8.96.

Letters of objection have been received from 44 and 46 Tollgate Road making the following observations:-

1. The proposal is too close to residential properties resulting in nuisance from noise, and smell;
2. The access from Tollgate Road is inadequate;
3. The proposal would be visually obtrusive;
4. The stables should be positioned among the buildings at Colney Heath Farm.

Consultations:

Director of Technical Services notified 16.8.96. No highway objections or concerns regarding the footpath raised. Any comments concerning landscaping will be reported orally at the meeting.

Environment Agency notified 16.8.96. No objection in principle subject to conditions regarding disposal of waste and drainage.

Hertfordshire Environmental Records Centre notified 3.9.96. They are satisfied that the ecological interests of this site should not be compromised.

Discussion

The erection of stables is considered acceptable development within the Metropolitan Green Belt as long as it integrates with the existing landscape.

The proposed positioning, materials and hedging would ensure that the stables would not be unduly obtrusive within the landscape, thus complying with the provisions of Policies 1, 69 and 96 of the St Albans District Local Plan Review 1994.

The previous application (5/96/0787) was refused because of proximity to residential properties in Tollgate Road and the resulting impact and loss of amenity to the occupiers of No 42. This has been addressed by the relocation of the proposed stables to a site some 40m away from the residential properties, while maintaining a distance from the flood plain of the River Colne and convenient access onto Tollgate Road.

Recommendation - GRANT

Conditions:

1. C14 (Limited Period - building and use) 3 years
2. C30 (Completed Development)
3. The use of the building hereby permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.

84

4. No solid matter shall be deposited so that it passes or is likely to pass into any watercourse.
5. The construction of the stable floor drainage system shall be carried out in accordance with details submitted to and approved in writing by the Planning Authority before the development commences.

Reasons:

1. R14
2. R30
3. To enable the District Planning Authority to exercise control over the development.
4. To prevent pollution of the water environment.
5. To prevent pollution of the water environment.

Decision Notice Code: A1 Plan Nos: T800 and site location plan.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Report written: 20.9.96

Bibliography

Title of Background Documents

St Albans District Local Plan Review, 1994

Custodian & Tel No

Mrs W Burt
01727 866100
Ext 2347

File Location

Council Offices
Civic Centre
St Peters Street
St Albans, Herts
AL1 3JE

Relevant Previous Planning Decisions

5/96/0787 Erection of stable. Refused 22.7.96

Consultations

Director of Technical Services 20.8.96

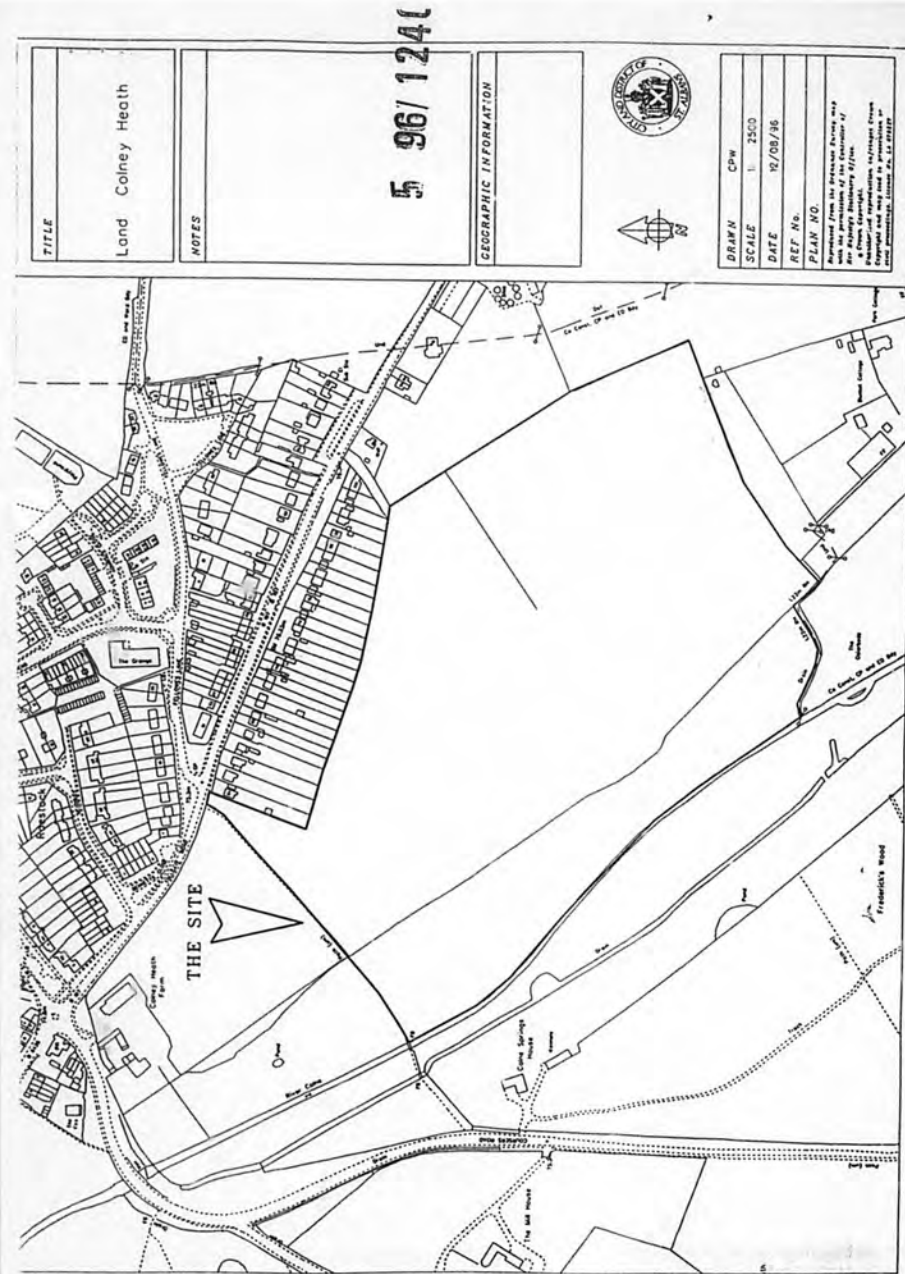
Environment Agency 22.8.96

Environmental Records Centre 18.9.96

Third Party Responses

Lynn D Skelt, 44 Tollgate Road, 5.9.96

Mr N Nichollas, 46 Tollgate Road, 6.9.96





The Planning Inspectorate

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

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117-987-8927
Switchboard 0117-987-8000
Fax No 0117-987-8769
GTN 1374-8927

Mr S Rogers
Templars Building Surveyors Limited
Baranite House
13 Whitehorse Street
BALDOCK
Herts
SG7 6QB

Your reference
T/800

Our reference
T/APP/B1930/A/97/279137/P8

Date 23 JUL 1997

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR J CLARKE
APPLICATION NO: 5/96/1240

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 City and District of St Albans Council to grant planning permission subject to conditions for the erection of a stable with associated grooming and storage facilities on land to the south of Colney Heath Farm, Coursers Road, Colney Heath. I have considered the written representations made by you and by the Council and also those made by an interested person. I have also considered those representations made directly by the Parish Council and other interested persons to the Council which have been forwarded to me. I inspected the site on 24 June 1997.
2. The condition in dispute is No 1 which provides that the permission is for a limited period expiring 3 years after 8 October 1996. On or before that date the use is to be discontinued and the building and works carried out under the permission are to be removed and the land cleared to the satisfaction of the local planning authority.
3. From my inspection of the site and its surroundings and from the representations made I consider that the main issues are whether, i) without the time limited condition, the building, which has already been erected, would be likely to deteriorate to the point where it becomes obtrusive in the landscape, and, ii) the condition is unduly onerous in view of the cost of construction.
4. The site is within the Metropolitan Green Belt where policy 1 in the St Albans District Plan Review 1994 says that permission will not be given for development other than that in certain specified categories, one of which is unspecified uses appropriate to a rural area. I am also referred to policies 69 and 96. I read that policy 96 refers to medium intensity uses in the



Green Belt but the Council do not supply me with its text. The submitted committee report says that the erection of stables is considered acceptable development within the Green Belt as long as it integrates with the existing landscape. It goes on to say that the positioning and materials of the stables and the nearby hedging would ensure that they would not be unduly obtrusive in the landscape.

5. In my view the building, which is made of timber boarding with a green mineralised felt roof, would be less durable than one made of more substantial materials. However I consider that the owners would be likely to maintain it in reasonable condition since it would otherwise fail to meet the purpose for which it was designed. Moreover, because the building is about 95m from the access to Tollgate Road, 90m from the nearest house and 40m from the end of the nearest garden, and the nearby public footpath is on the far side of a high hedge, I consider that anything other than serious deterioration in its condition is unlikely to have a significant effect on the general character of the surrounding area.

6. The limited harm which could result from the deterioration of the building must be set against the loss to your client if the permission was not renewed after 3 years. You tell me that the construction of the building cost about £20,000, a figure which is not contested by the Council. It seems to me that a condition requiring the removal of a building costing this much after only 3 years is onerous.

7. As you point out paragraph 111 of the Annex to Circular 11/95 says that a temporary permission should be reasonable having regard to the capital expenditure required to carry out the development. I appreciate that the guidance relates to trial runs for developments which are potentially detrimental. In the present case the time limit has a different purpose but I consider that the principle behind the guidance is still relevant. The paragraph goes on to say that a temporary permission would not be justified because, for example, a building is to be made of wood rather than brick. It seems to me that this advice is particularly relevant to the appeal before me.


8. I conclude that the potential harm which could result from the deterioration of the building is outweighed by the burden which is imposed by the condition and that the condition is not justified.

9. I have taken account of all the other matters raised in the written representations but find that they do not outweigh the considerations which lead me to my decision.

10. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and vary the planning permission No 5/96/1240 for the erection of a stable with associated grooming and storage facilities on land to the south of Colney Heath Farm, Coursers Road, Colney Heath granted on 8 October 1996 by the City and District of St Albans Council by deleting condition No 1.

11. 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


G Arrowsmith BA MCD MRTPI
Inspector

file



ENVIRONMENT AGENCY

Our ref: SM/TL20NW/1/B(12597)
Your ref: AVM/tos5/96/1240
Date: 18 December 1996

Director of Planning & Heritage
City & District of St Albans
Civic Centre
St Peter's Street
ST ALBANS
Herts AL1 3JE

FAO: Mr A Moorhouse

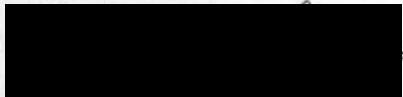
Dear Sir

PROPOSED: DISCHARGE OF CONDITIONS 4 & 5
LOCATION: COLNEY HEATH FARM
APPLICANT: MR J CLARKE

Thank you for your letter dated 19 November 1996.

With regard to the applicant's proposal to discharge Conditions 4 and 5 of Planning Permission 5/96/1240, the Environment Agency considers the situation to be satisfactory in terms of protection of the groundwater quality in the underlying aquifer.

Yours faithfully
For and on behalf of
Senior Planning Liaison Officer (North East)



Ms S Manley
Planning Liaison Officer

The Grange, 97 Crossbrook Street, Waltham Cross, Herts, EN8 8HE
Tel: (01992) 645079, Fax (01992) 630707



DIRECTOR OF PLANNING AND HERITAGE.
P. J. LERNER, MA., DipTP., MRTPI.

Our Ref: AVM/a/5/96/1240
Your Ref: file
Please Ask For: Mr A Moorhouse
Extension: 2744
Direct Line No:
Fax No: 01727 845658
Date: 20 November 1996

Templars
Baranite House
13 Whitehorse Street
Baldock
SG7 8QB

Dear Sir

Planning Permission 5/96/1240
Stable Building, Colney Heath Farm

Thank you for your letter dated 29th October 1996 concerning the above mentioned planning permission for a stable building at Colney Heath Farm, Colney Heath.

I have passed the details to the Environment Agency and the Council's landscape architect for comment. I expect that supplementary landscaping and more detail of hedge sizes and numbers will be required. I will forward details of the comments to you in due course.

Yours faithfully

A V Moorhouse
Area Team Leader





DIRECTOR OF PLANNING AND HERITAGE
P J LERNER, MA, DipTP., MRTPI

Our Ref: CMP/99/0171
Your Ref:
Please ask for: Mr G R Day
Direct Line No: 01727 819258
Extension: 2258
Planning Fax No: 01727 845658
Date: 12 April 1999

Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts
AL4 0PA

Dear sir

LAND SOUTH OF COLNEY HEATH FARM COURSERS ROAD COLNEY HEATH.

On the 8th October 1996 planning permission was granted by this local Planning Authority for the erection of stables with associated grooming and storage facilities at the above site. Within that permission there is a condition that the use of the building permitted shall be limited to stables for private purposes only and no trade or business shall be carried out on or from the site.

Concern has been expressed that other persons have use of the stables their own horses, contrary to the above condition. Can you please confirm, in writing, whether or not this is the case.

It has also been brought to the attention of this Council that a metal container has been stationed on the site and is being used as a stable for a horse. This container does not benefit from planning permission. During a visit to the site I spoke with Mr Harper, who informed me that he looks after the horses and that it would be removed by the end of April 1999. Can you please confirm this in writing.

Whilst on site I noted the stationing of a box trailer unit which again is unauthorised and should be removed by the end of this month. Can you please confirm in writing that this will also be removed.

Should you wish to discuss this matter please do not hesitate in contacting me.

Yours faithfully

A black rectangular box redacting the signature of G R Day.

G R Day
Planning Enforcement Officer



THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

D.C.3

Ref No. 5/97/0779

TOWN & COUNTRY PLANNING ACT 1990
CITY AND DISTRICT OF ST ALBANS

AGENT
Templars Building Surveyors
Ltd
13 Whitehorse Street
Baldock
Herts
SG7 6QB

APPLICANT
Mr J Clarke
The White Barn
Colney Heath
St Albans
Herts

Hard-surfaced access, drive and turning area

Land to south of Colney Heath Farm, Colney Heath

In pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 25th April 1997 and received with sufficient particulars on 6th May 1997 and shown on the plan(s) attached subject to the following conditions:-

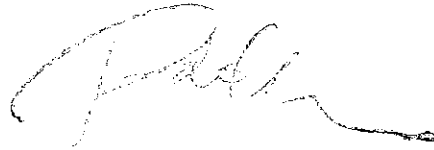
1. The development hereby permitted shall not be commenced until a scheme for landscaping, showing existing and proposed ground levels and including tree and/or shrub planting, seeding, paving and treatment of other hard surfaces, plant containers and raised beds (all indicating any existing trees and shrubs not otherwise affected by the proposed development and which are to be retained) has been approved in writing by the District Planning Authority. The landscape scheme shall be completed within 12 months of the bringing into use of any part of the approved development, unless the period is extended in writing by the District Planning Authority or unless the approved scheme specifically provides an alternative timetable.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:-

1. To ensure satisfactory landscaping of the site in the interests of visual amenity.

Dated 19th June 1997

signed



Director of Planning & Heritage

Am

SEE ATTACHED SHEET FOR NOTES

INFORMATIVE

THIS MATTER IS ADVISORY AND DOES NOT FORM PART OF THE FORMAL
DECISION

The landscaping scheme required by condition 1 should include
planting along the boundary with No 42 Tollgate Road.