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DTS

PLANNING SECTION

13 JAN 1981

Wm F Johnson and Partners
 39A High Street
 HEMEL HEMPSTEAD
 Herts
 HP1 3AA

FILE
No.

DATE

Your reference

WFJ/CK/1126

Our reference

T/APP/5252/A/80/11445/G10

Date

13 JAN 1981

12 JAN 1981

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY MR HARVEY SMITH
 APPLICATION NO: 4/0025/80

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse outline planning permission for the erection of a detached dwelling at the rear of Happs Edge, 60 Box Lane, Bovington. I have considered the written representations made by you and by the council, by the Bovington Parish Council and also those made by interested persons. I inspected the site on 11 December 1980.
2. From my inspection of the site and its surroundings and from my consideration of the written representations made, I am of the opinion that there are 2 significant aspects which need to be resolved. The first is whether the site should be considered in the context of Green Belt policies or whether less restrictive policies would be appropriate. The second aspect is whether development on the site would conflict with the appropriate policy or could be allowed as an exception to the policy.
3. In their statement the council have argued that the site is one to which Green Belt policies should apply, relying on the County Structure Plan, which I note was approved in September 1979. Though the precise boundary of the Green Belt has yet to be established, in the Dacorum District Plan, which has been recently 'certificated', it is stated that the northern boundary of the Green Belt will pass to the North of Berkhamsted and Hemel Hempstead and the Green Belt will therefore include the site concerned. I have considered whether the appeal site has been appropriately included in the proposed Green Belt but I find no reason to question its inclusion for the time being, pending the definition of the Green Belt boundary.
4. In your comments on the council's statement you appear to argue that Green Belt standards should not apply to your client's site because it is part of the existing residential area and that development at the site could not constitute a precedent for further development. I find these arguments less than persuasive since the existence or not of a Green Belt at a particular site does not depend on whether the land concerned or in the vicinity has been developed, all land within the Green Belt is included with the object of limiting further development; this could be as in this case where the proposed development is within the curtilage of an existing house, which itself is in a Green Belt area. I conclude therefore that Green Belt policies are properly applicable to the appeal site and therefore that exceptional reasons would need to be put forward to justify the granting of permission. None of the reasons advanced on behalf of your client are, in my opinion, exceptional.

5. Turning to the second aspect, as has been pointed out, the site is surrounded on 2 sides by agricultural land and on one side by Hay Wood, development would have the effect of extending the built up area into the open countryside and is therefore undesirable from a planning aspect. You have argued that the house would not be visible from the road and would be further screened by a new planting of trees; these arguments do not diminish the fact that an extension of urban development is being contemplated which, if allowed, would result in an encroachment into the countryside.

6. The proposed access would be steep in places and, though no doubt an access could be constructed, it would be at the expense of the natural configuration of the hill on which Happs Edge stands; it would also pass very close to the front door of the existing house and serve to diminish the amenity of the occupants. The fact that it would be necessary to build a new garage and access for Happs Edge would have an adverse effect on the appearance of the overall site. Problems of excess run off of surface water might also result from all the new road works. These aspects though not conclusive of themselves tend to reinforce the general arguments against allowing development.

7. I conclude that development would be undesirable on several counts and would run counter to the Green Belt policies, which, in my opinion, have been correctly applied by the council. In coming to my conclusion I have taken into account all other matters raised in the written representations, including the description of the other development, which has taken place in Box Lane and Bury Rise, and the unsuitability of the land for other use, but I do not regard these as sufficient to outweigh the principal considerations, which have led to my decision.

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

I am Gentlemen
Your obedient Servant

M. C. Eveleigh

M C EVELEGH
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other
Ref. No.

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To H. J. Smith, Esq.,
60 Box Lane,
BOVINGDON,
Herts.

Messrs. Wm. F. Johnson & Partners,
39a High Street,
HEMEL HEMPSTEAD,
Herts.

Detached dwelling - OUTLINE
at rear of Happs Edge, 60 Box Lane, Bovington.

Brief
description
and location
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 9th January, 1980 and received with sufficient particulars on 9th January, 1980 and shown on the plan(s) accompanying such application.

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

The site is within an area without notation on the approved County Development Plan and in an area referred to in the approved County Structure Plan (1979), wherein permission will only be given for the construction of new buildings, (or the change of use or extension of existing buildings), for agricultural purposes, small scale facilities for participatory sport and recreation, or other uses appropriate to a rural area. The proposed development is unacceptable in terms of this policy.

Dated 28th day of February, 1980

Signed *[Signature]*
Designation Director of Technical Services.

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. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Whitehall, London, S.W.1.) 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 for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.