

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mr. & Mrs. J. K. Wilson,
Hollybush Wood,
Potten End,
BERKHAMSTED,
Herts.

.... One dwelling

at adj. Hollybush Wood, Waterend Road, Potten End.

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 15th June, 1978, and received with sufficient particulars on 26th June, 1978. 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 without notation on the County Development Plan and in an area referred to in the submitted County Structure Plan Written Statement within which there is a presumption against further development unless it is essential for agricultural or other special local needs - insufficient justification has been proven to warrant departure from this principle.

Dated 3rd day of August, 19 78...

Signed

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.



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GENERAL SERVICE

PLANNING SERVICE

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Your reference

DB/DMcC/15682

Our reference

T/APP/5252/A/78/11594/G2

Date

22 JUN 79

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR AND MRS J K WILSON
APPLICATION NO:- 4/0820/78

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for the erection of one dwelling on land at Hollybush Wood, Potten End. I held a local inquiry into the appeal on 15 May 1979.

THE SITE AND ITS SURROUNDINGS

2. The site, the subject of appeal is a parcel of land fronting to the north side of Water End Road some 700 yds to the east of the church and school at Potten End. The site has a frontage of some 130 ft, a depth of some 400 ft, a maximum width of some 200 ft, and an area of about 1.4 acres. The land falls gently from south to north and its central portion presently forms the kitchen garden, and the site's perimeter part of the wooded grounds of a substantial property, Hollybush Wood. The site is bounded by hedges and fencing to the north, west and south. Its eastern boundary is undefined. Access to the site is gained by way of a 12 ft wide gated track joining Water End Road at the western end of the site frontage.

3. Potten End is a scattered village in which most of the dwellings are beside, or in groups with access from a few roads which radiate from its central 'Green'. Water End Road is one such road. Along the road's south side, the built up part of the village ends near to the Coach Depot although there is a scatter of houses beyond with 4 facing the appeal site. Along the road's north side, the densely built up part of the village extends further eastwards to a public footpath leaving the road some 110 yds east of Olivers Close. Beyond this stand 2 houses in extensive grounds, Lodge Aruhna and Hollybush Wood with Brackens, a large house in a much smaller curtilage, occupying a frontage between them. Further to the east a group of houses has been built around Hollybush Close. All dwellings on the north side of the road to the east of the footpath stand in well developed gardens with extensive tree and hedge surrounds, and to some extent have been assimilated into the countryside and are relatively inconspicuous. The curtilages of Lodge Aruhna and Brackens both adjoin the appeal site, and both houses have first floor windows facing towards the tree and hedge screen at the appeal site boundary.

4. Water End Road has a straight alignment past the appeal site, and a narrow footway along its frontage. The village speed limit commences some way to the west of the site and extends westwards. A combination of narrow footway and boundary hedges

mean that the sight line, in particular to the right, for a private car emerging from the site access would be significantly below that recommended in the Appendix to Development Control Policy Note No. 6 for a private access joining a speed derestricted road.

From the evidence presented to me on behalf of your clients, there appear to be the following material points:-

5. Your clients purchased Hollybush Wood, a 7 bedroomed house standing in some $5\frac{3}{4}$ acres of land in 1958, since then it has been their residence. Their family circumstances have changed, and they now seek a new dwelling commensurate with their present needs. They wish to continue living at Potten End close to their dwelling for the past 21 years.
6. In 1960, planning consent was given on appeal (Document 2) for the erection of a service cottage on the appeal site. This consent was not implemented and lapsed on 1 April 1974. In the intervening period, consent was given to the construction of a vehicular access to the appeal site, and this was completed in the mid 1960s. It is considered that, had matters relating to the access been included in the 1960 consent, your clients would be able to build their proposed house now without any further grant of consent. Alternative applications were made in 1973 for the erection of one house on the appeal site, or 18 houses on the curtilage of Hollybush Wood, but both were refused and the resultant appeals dismissed in 1975 on green belt grounds (document 3).
7. The application now subject to appeal, stated that the dwelling was required for a horticultural worker's residence. This aspect of the proposal was withdrawn at the inquiry although it was stated that the appellants would seek to establish a small horticultural activity to augment their income.
8. Your clients are aware that Potten End is regarded by the Council as a village in which limited infilling might be allowed, and have noted that several recent planning consents have been given for both infilling, and backland developments closer to the village centre. Your clients consider that the appeal site conforms with the criteria for infilling, and that it lies within the village envelope which they regard as extending to include Hollybush Close and the adjoining poultry farm. They consider that the Council has acted unfairly in approving the other applications whilst rejecting their proposal.
9. If approved, the new dwelling would be sited in such a location that none of the mature trees presently growing upon the appeal site would have to be felled, nor would their growth be adversely affected. Access would be gained by way of the existing access laid out in accordance with the consent given in 1963.

For the Council, the material points were:-

10. Potten End and the countryside to the south lie within an area without notation on the County Development Plan. Within such areas, the Council has a policy to permit only such development as would be approved within the Metropolitan Green Belt. The site abuts the southern boundary of the Chilterns Area of Outstanding Natural Beauty. The submitted County Structure Plan proposed that the whole of the rural areas of Dacorum District be included in a green belt; however the Secretary of State has proposed a modification whose effect would be that the green belt be extended to a depth of some 12-15 miles around London with its boundary to be identified in a District Plan. There is uncertainty whether the land around Potten End would be included in the proposed formal Green Belt area.

11. The Council regards Potten End as a village in which infilling development within the village core might be permissible. The village core is regarded as extending along the north side of Water End Road to the footpath east of Olivers Close. Thus the Council considered that the application site lies outside the village core, and that your clients' proposal had been determined in accordance with its published policy. In particular, the proposed development is regarded as detracting from the character of the area and, both by itself and as a precedent for further development would adversely affect the character of a predominantly rural area. The site is not regarded as representing a small gap in a largely built up frontage, and thus is considered to fall outside the definition of infilling. Document 3 indicates that this argument was accepted in the 1975 appeals' decision letter.

12. The Council considers that the appellants could satisfy their personal considerations by selling Hollybush Wood, and acquiring a house of more suitable size.

For an interested person, the material points were:-

13. Mr Eadie, 'Brackens', Water End Road. He wrote to support the Council's case, stating that he considers it impossible to carry out the development without the felling of well established trees, and that an approval would be a precedent for other development in the vicinity of the site.

Bearing in mind the above points:-

14. I consider that the principal issue to determine the outcome of this appeal is the effect of your clients' proposal upon its surroundings, bearing in mind the planning history of the site, and the recent record of planning consents in its vicinity.

15. The existing development on the north side of Water End Road changes in its style at the public footpath. To the west, housing is built in depth from the road with a row of houses beside the road, and all readily visible to passers-by. To the east are 3 widely dispersed houses and the Hollybush Close development, all well screened from the road by trees and hedges and well assimilated into the countryside. The effect of your clients' proposal would be to add a further unit within the group of 3 houses. I am satisfied that it would be practical to site a new house upon the appeal site without disturbing any of the existing mature trees there.

16. Although the access was approved as recently as 1963, I noted that it does not accord with the current layout recommendations. The access point lies close to the south western corner of the site, and if the sight line to the west for an emerging driver were to be improved to conform with the recommended dimensions, it would require the resiting of the hedge along the frontage of 'Brackens', which is outside your clients' control. I do not regard this access deficiency as fatal to your clients' proposal but one which, if consent is granted, your clients could seek to mitigate in consultation with the highway and planning authorities.

17. In recent weeks, the Secretary of State has proposed a modification to the submitted Hertfordshire Structure Plan which, if adopted, would extend the Metropolitan Green Belt, leaving the remainder of the County's rural areas subject to less rigid development control policies. At the present there is no indication that the extended Metropolitan Green Belt would encompass the appeal site, and thus I do not propose to follow the precedent of the 1975 decision and apply rigorous green belt policies to determine the outcome of this appeal, but to assess the effect of the proposed development upon its merits.

18. The appeal site adjoins houses on its western and eastern boundaries, and faces across Water End Road to an isolated row of houses. To the north it contains a

substantial screen of mature trees upon its boundary with the Area of Outstanding Natural Beauty. Whilst the erection of a house would lead to some overlooking of the curtilages of Lodge Aruhna and Brackens, I am satisfied that any loss of privacy to the occupiers of these houses would be minimal. The appeal site is large for a single dwelling, but as it would lie adjoining 2 much larger, and one smaller, curtilages, I have concluded that it is appropriate for me to regard it as a building site of a size in keeping with its surroundings and within the overall village residential envelope.

19. I am satisfied that whether or not the site lies ultimately within the boundary of a green belt, I should regard your clients' proposal as an acceptable means of filling a gap between existing dwellings on the fringe of a village built up area. I do not consider that, in granting consent to your clients' proposal, I am creating an undesirable precedent which will make other proposals difficult to resist as any further building in the grounds of Hollybush Wood, or on nearby land would require either the formation of new accesses to Water End Road with consequent breaches in the roadside hedges and tree felling, or the undesirable multiple use of existing single dwelling accesses.

20. I have noted 'access' as a reserved matter in the consent which follows to enable ways and means of altering its layout to be discussed and determined when details of the proposed development are submitted for approval. I have also listed landscaping to enable the preparation of a scheme for planting trees between the existing mature trees so that as the latter reach the end of their lives, new trees will have become established to continue the site's screening for many years to come. I do not regard matters relating to the establishment of a horticultural activity at the site as being before me for determination and it will be for your clients to take advice upon whether their intentions are such as to require a further grant of planning consent. I have considered all the other matters raised, but they did not lead me to alter my decision.

21. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of one dwelling on land at Hollybush Wood, Potten End in accordance with the terms of the application (No. 4/0820/78) dated 15 June 1978 and the plan submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the building, the means of access thereto and the landscaping of the site (hereinafter referred to as "the reserved matters") shall be obtained from the local planning authority;
- b. application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this letter;
2. the development hereby permitted shall be begun on or before whichever is the later of the following dates:
 - a. 5 years from the date of this letter; or
 - b. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved.

22. Attention is drawn to the fact that an applicant for approval of the reserved matters referred to in this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

23. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant

A handwritten signature in cursive script, appearing to read 'J D Broadley'.

J D BROADLEY, BSc MEng CEng MIMunE MIMunE MIMunE
Inspector