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Your reference

Our reference

T/APP/5252/A/76/3691/G9

Date

10 NOV 76

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY MR D MEAD AND MR P MEAD  
APPLICATION NO:- 4/0977/75

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 residential development comprising 20 units and a visual leisure area on land fronting Wick Road, Wigginton. I held a local inquiry into the appeal on 20 October 1976.

2. From my inspection of the site and surroundings and from the representations made I consider that the determining issue in this appeal is the effect which the development proposed would have on the appearance and character of the locality.

3. The site is approximately a rectangle of land about 900 ft long, with a frontage of about 150 ft on the south side of Wick Road, Wigginton. The northern half is mainly rough grass, but in the southern half are fruit trees, the remains of a greenhouse, and remains of a few derelict sheds. On the north side of Wick Road, opposite the north-west corner of the site, is a cul-de-sac of post war dwellings, known as Osborne Way, running northwards, which marks the western limit of development. Beyond it is a grass field, and there is also open country along the west side of the site. At its southern end is a beechwood known as Sheepswalk. Part of this wood is within the site, and the application includes a proposal to tidy and conserve this part as a visual leisure area. The southern half of the eastern boundary adjoins the rear gardens of houses fronting Chesham Road, and that of a bungalow known as Lingwood, which has no road frontage. The northern half of the eastern boundary adjoins a substantial area of allotment gardens, not all of which is cultivated, from which the site is separated by tall dense bushes and trees.

4. Although there is no village plan, and no formal village envelope, the main area of development appeared to me to lie north of Wick Road, as far as Vicarage Road and Highfield Road. South of the junction of Wick Road and Chesham Road, apart from a public house and a new police house, is only the short ribbon of pre-war houses which back on to the site. Further south, on the other side of Chesham Road is a small group of houses known as Wigginton Bottom. I am in no doubt, therefore, that the 20 dwellings proposed for this site would amount to a substantial extension of the village into open country, which is very pleasant, and is, moreover part of an Area of Outstanding Natural Beauty. This, in my judgment, would certainly be harmful to the rural character and appearance of the area.

5. I appreciate that the present proposal differs in some respects from that which was the subject of your earlier appeal, which was dismissed in September 1975. In particular the plan then submitted showed an access road running the length of the site, whereas the present application leaves the length of the access for later approval. There was, moreover, no proposal for a visual leisure area in the earlier application. However, neither of these factors can, in my view, overcome the main objection to the proposal, quite clearly stated in the previous decision letter, that it would be an undesirable intrusion into open country, outside the clearly recognisable limits of the village.

6. I also recognise that the basis of this appeal differs from that of the last, in that you are this time relying mainly on the decision in *Sampsons Executors v. Nottinghamshire CC* (1949 2 KB 439) in which, you say, Lord Chief Justice Goddard held that "the bringing of agricultural land into the curtilage of a dwellinghouse involves a material change of use of land". This appears to be a paraphrase of a passage in that judgement, which reads:

"But, as I understand the argument which has been addressed to us in support of the contention that some additional sum should be awarded, it was said that an owner of neighbouring property might bring the land within the curtilage of a dwellinghouse, because he might put up a dwellinghouse on adjacent land which was not subject to restriction, or for the development of which permission could be obtained, and that the land in question could be brought within the curtilage of that dwellinghouse, and that, by section 12 sub-section 2(d), that would not be a "development" within the meaning of the Act. I think that that argument is fallacious, because once such an owner brought the land, which is at present agricultural land, within the curtilage of his dwellinghouse, so that it became part of the dwellinghouse, he would be altering the use of the land, and that is prohibited by section 12, sub-section 1. I think, therefore, that the arbitrator should not add anything to the value of the land on account of that consideration."

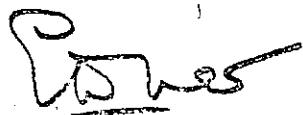
7. I am not persuaded by this argument, although I accept that this land came under the same ownership as the bungalow, Lingwood, before 1 July 1948, and was later transferred to the same ownership as 1 Chesham Road, which adjoins both Lingwood and the site. Assuming that this large rectangle of land, about 3 acres, could correctly be described as part of the curtilage of first Lingwood, and now of 1 Chesham Road (and I am not altogether convinced that it would), planning permission would still be required to build on it. The fact that a site lies within the curtilage of a dwellinghouse carries no presumption that permission will be granted, although it could be one of a number of factors which might need to be considered. I have also considered all the other matters raised in the course of the inquiry, but can see no reason to reach any other decision.

8. Applications for costs were made on behalf of yourself and your brother, and on behalf of the council; I have reported both to the Secretary of State.

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

I am Sir

Your obedient Servant



E D CREW CB MA FRAeS  
Inspector