

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

AJP

To C Selly
Weedon Hill Farm
Weedon
Nr Aylesbury
Bucks

P Metcalfe
3 Western Road
Tring
Herts

..... 100 Houses, 60 Elderly Persons Dwellings and Day
..... Nursery (Outline)
.....
at Land off Station Road/Grove Road, Tring

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 11th October 1985 and received with sufficient particulars on 21st October 1985 and shown on the plan(s) accompanying such application..

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

- (1) The site is within the Metropolitan Green Belt on the County Structure Plan and Dacorum District Plan where permission will only be granted for development for agricultural or other essential purposes appropriate to a rural area. No such need has been proven and the proposed development is unacceptable in the terms of this Policy.
- (2) The proposed residential development would intrude into an area of attractive countryside to the detriment of the character and appearance of the area.
- (3) The proposed site on the edge of the town is unsuitable for elderly persons development because of its distance from shops and other community facilities.

/Continued....

Dated 28th day of November 19.85..

Signed.....

Chief Planning Officer

SEE NOTES OVERLEAF

P/D.15

NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.



Departments of the Environment and Transport

Eastern Regional Office

Charles House 375 Kensington High Street London W14 8QH

22344

CHIEF EXECUTIVE
OFFICER

16 OCT 1987

File ref.
Refer to *CPA 116/10*
Cleared

Direct line 01-605-9086

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GTN 2570

PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

Messrs Boodle, Hatfield
Brookfield House
44 Davies Street
LONDON W1

CPD	FP	CC	SC	Admin	File
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Received 16 OCT 1987

Comments

Your reference

Our reference

APP/A1910/A/86/049987

Date

15 OCT 1987

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36

APPEAL BY C SELLY AND P METCALFE

APPLICATION NO: 4/1354/85

1. I am directed by the Secretary of State for the Environment to say that consideration has been given to the report of the Inspector Mr A D Kirby RD MA MSc FRTPi who held a local inquiry into your clients' appeal against the decision of Dacorum Borough Council to refuse outline planning permission for mixed residential development, including sheltered dwellings for old persons, on land east of Grove Road, Tring, Hertfordshire.
2. It is noted that at the inquiry it was agreed that the layout plan submitted with the application was for illustrative purposes only and did not form part of the application. On this basis the Council decided not to pursue their reasons for refusal Nos. 4 and 5.
3. The Inspector, whose conclusions are in the Annex to this letter, recommended that the appeal should be dismissed. A copy of his report is enclosed.
4. The Secretary of State accepts the Inspector's findings of fact and agrees with his conclusions.
5. On the question of housing land availability, the Secretary of State notes your clients' argument that the provisions of the Review Structure Plan are the appropriate basis for calculation. Paragraph 5 of Annex B to Circular 15/84 advises that it is only appropriate to use unapproved Structure Plan provisions as a basis for calculation of the required housing land supply when there are no figures for housing in the approved Structure Plan, or when the time period of the Plan's provision for housing is expired. In this case, the Plan period for both the approved Structure Plan and the adopted District Plan as far as housing land supply is concerned had 5 years to run at October 1986 and there is no dispute that at October 1986, the latest date for which agreed figures are available, there was a supply of between 6.6 years and 7.5 years based on approved policies. The Secretary of State therefore endorses the Inspector's view that there is not a presumption in favour of allowing this development as referred to in Circular 22/80.
6. As he has said above, the Secretary of State agrees with the Inspector's conclusions which include those relating to the main planning considerations in this case, namely, whether there are any particular circumstances that would

justify the appeal site as an exception to the green belt policies applying to the site, and the agricultural quality of the land. He therefore agrees with the Inspector that while in this case the agricultural factor does not attract additional weight, based on the approved Development Plan and taking into account the local landscape amenity considerations there are sound and clear cut reasons for not allowing this appeal, and that these objections are not outweighed by the absence of a 2 year supply of housing land.

7. As the Inspector says, the submitted Structure Plan Review is a material consideration which needs to be taken into account and it is noted that its proposed housing programme is based, in part, on the expected contribution from land which can be released for housing without unacceptable damage to the Green Belt. Its policies also indicate that those releases are to be achieved through an examination of Green Belt boundaries in reviews of District Plans. In fact since the inquiry was held into this appeal, the Secretary of State has published his proposed modifications to the Hertfordshire Structure Plan Review 1986. Among other things, these propose to modify the policies as submitted a) to delete from Policy 53 the proposal to review and adjust Green Belt boundaries around towns as being in direct conflict with the Secretary of State's stated policy of altering boundaries only in exceptional circumstances, and, b) to reduce the provision for Dacorum of 8600 dwellings for 1981-1996 to 6800 dwellings.

8. These proposed modifications are of course now subject to a period of objection before any final decision is made by the Secretary of State. Quite apart from the fact that if confirmed as proposed these modifications would undermine your clients' case, the Secretary of State agrees with the Inspector that from the evidence adduced at the appeal inquiry there is insufficient justification in this case for making an exception to the normal application of Green Belt policy

9. For all these reasons, the Secretary of State accepts the Inspector's recommendation and hereby dismisses your clients' appeal.

10. A separate letter is enclosed about the Council's application for an award of costs.

I am Gentlemen
Your obedient Servant

MISS J R POOL
Authorised by the Secretary of State
to sign in that behalf.

ENC.

Circular 14/84 indicates that there should be at least a 5 years' supply of land for housing in terms of the general scale and location of development provided for in approved Structure and adopted Local Plans. There is no dispute that at October 1986, the latest date for which agreed figures are available, there was a supply of between 6.6 and 7.5 years based on approved policies. The Plan period for both the approved Structure Plan and the adopted District Plan as far as housing land supply is concerned had 5 years to run at October 1986. There is not therefore a presumption in favour of allowing this development as referred to in Circular 22/80.

The District Plan is a recent plan, having been adopted in 1984, and it defines the boundary of the Green Belt. In terms of Circular 14/84 there is therefore a presumption against the appeal proposal and the loss of the appeal site from the Green Belt. Whilst I can appreciate the appellants' view that the existing boundary of the Green Belt in the vicinity of the appeal site is not particularly strong or meaningful in the sense that the line of a road or railway might provide a strong physical definition I find it a perfectly defensible line and one which has the attribute of providing a 'soft' edge to the urban area because of the large and well planted gardens adjacent to it. The appeal site cannot reasonably be seen as infilling or rounding off and the new boundary to the Green Belt which would arise if the appeal were allowed would have neither the logic or existing well established field hedgerows nor existing urban form. Indeed the development of the appeal site could invite the proposition that the triangle of AONB land between Station Road and Cow Lane to the south should be developed as rounding off.

In landscape terms the appeal site is indistinguishable from the wider area of countryside to the north-east of Tring and to allow its development would run counter to the general aim of the Green Belt to safeguard the countryside around built-up areas from further encroachment. In terms of the specific objectives set out in Circular 42/55 the release of the appeal site would not of itself cause the merging of neighbouring towns, Berkhamsted the nearest town being some 3 miles to the south-east. Nevertheless its development would bring the urban edge of Tring closer to the hamlet in the vicinity of the station and would be a significant contribution to the incremental process of urban expansion and the erosion of the Green Belt which, over a period of time, leads to the coalescence of settlements and, more immediately, detracts from the important rural attributes of the Green Belt.

I have no doubt that much could be done in terms of landscaping development on the appeal site; with time the raw edge of new development could be ameliorated and the impact on the landscape when viewed from the higher ground of the AONB would not be unacceptable. However that would not be the case in the vicinity of Station Road. To the east of the Cow Lane, Grove Road, Station Road junction there is a clear change in the landscape; from urban to rural. The Pendley Estate to the south, within the AONB, is an attractive largely wooded area within which the isolated buildings are not visually intrusive. Development of the appeal site even with boundary planting and existing trees retained would impart an urban or suburban feel to this part of Station Road. It would be difficult to entirely screen houses and in any event the new access road would of necessity be a prominent feature. Thus there would be unacceptable damage caused to this not unattractive area of otherwise unspoilt countryside.

In considering the agricultural aspects of this appeal I have had regard to Circular 16/87 which was published after the inquiry closed. I note that it is intended to amend Article 15 of the Town and Country Planning General Development Order to generally only require consultation with MAFF in cases involving the loss of more than 20 hectares of Grades 1, 2 or 3a agricultural land. However, in general, the need to protect the best and most versatile land, including Grade 3a, from irreversible development remains. Whether or not the appeal site should be so regarded relates to the assessment of the stoniness of the land and in particular whether or not the stone content of the topsoil is generally above or below 15%.

The evidence before me points to a definition of stones as being material greater than 2 mm and inevitably the use of a 1 cm sieve in the field will produce a lower stone count than a 2 mm sieve in the laboratory. Moreover I do not entirely accept the view of the MAFF witness that in terms of agricultural land classification the principal consideration relating to stone content concerns the effect of larger stones on machinery. Technical Report 11/1 (Document 8, WPL2) in dealing with criteria for Grade 3b land relates the percentage of stones to the level of rainfall. It was agreed by both parties that the smaller stones down to 2 mm affected the water retention qualities of the land. On balance therefore I tend to favour the view of the appellants that the land is generally Grade 3b land; at best it lies on the margins of Grades 3a and 3b.

I do not consider that in this case additional weight needs to be given to the agricultural factor. Nevertheless based on the approved Development Plan and taking into account the local landscape amenity considerations I consider there are sound and clear cut reasons for not allowing this appeal. Given the strength of these objections I do not consider that the absence of a 2 year supply of housing land outweighs them. However the submitted Structure Plan Review is a material consideration which needs to be taken into account.

It is by no means clear that the County Council intended paragraph 1.8 of the Explanatory Memorandum of the Review Structure Plan to apply to appeals such as this at this time. The comment is made in the context of a section dealing with District Plan Reviews, upon which it is noted that some work has started. In the context of those reviews the co-operation of the house building industry is sought in carrying out Circular 15/84 studies based on the submitted Structure Plan Review programmes.

If I am correct in that interpretation the housing land availability assessment as it affects this appeal is appropriately made in the context of the approved plans and the most recent agreed study made under Circular 15/84.

I am supported in that interpretation, I believe, by the statement in the submitted Review concerning the achievement of an adequate supply of housing land. The proposed housing programme is based on existing allocations and commitments and the expected contribution from land which can be released for housing without unacceptable damage to the Green Belt (para 7.4.25). In turn, Policies 53 and 57 indicate that those releases are to be achieved through an examination of Green Belt boundaries in reviews of District Plans.

This emphasis on the role of the District Plan Review process also has a wider significance. Circular 14/84 stresses the permanence of Green Belts and the need to maintain that protection as far as can be seen ahead. It follows therefore that ad hoc releases outwith the District Plan review process should not be undertaken lightly. Whilst I appreciate the appellants' view that the longer the process of Structure Plan approval and District Plan review the greater the problems of expanding the house building rate after a period of restraint, I am not convinced that the problem is at the moment so great or that the need to release more land is so immediate that this proper process of weighing all development opportunities should be overridden, particularly in advance of the approval of the Review Structure Plan. There could be serious environmental penalties in doing so in this area of great development pressure and high environmental constraint.

Turning to other matters I have some sympathy with the concern expressed by the Council and local residents about the suitability of the site for elderly persons' dwellings. However, I do not consider the site so unsuitable that refusal would be justified on those grounds. In essence I believe that to be a matter which could be left to the commercial judgement of the developer if permission were to be given. Despite the concern about undue pressure on services in Tring and the fear that this proposal would unacceptably exacerbate the problem there is no conclusive evidence to suggest that refusal would be justified for this reason alone and the Borough Council do not raise this as a basis for refusal.

I conclude therefore on the evidence before me that there is insufficient justification for making an exception to the normal application of Green Belt policy in this case. In the event of the Secretary of State deciding to the contrary I consider the conditions suggested by the Council to be generally suitable, although condition (a) would duplicate the standard outline condition requiring submission of siting, landscaping and access details. I also share the appellants' view that a Section 52 agreement on the lines suggested by the Council need not be a pre-requisite to a planning permission. However a more explicit landscaping condition relating to the need for substantial landscaping of the eastern boundary generally on the lines suggested by Circular 1/85 would be appropriate.

Tollgate House
Houlton Street
BRISTOL

APP/A1910/A/86/049987

30 June 1987

To The Right Honourable Nicholas Ridley MP
Secretary of State for the Environment

Sir

I have the honour to report that on 8 April and 1 May 1987 I held an inquiry at the Victoria Hall, Tring into an appeal by Mr C Selly and Mr P Metcalfe against the refusal of the Dacorum Borough Council to permit development on land east of Grove Road, Tring, Hertfordshire.

1. I have submitted, simultaneously, my appeal inquiry report and this report, which relates to an application for an award of costs made at the inquiry by the Local Planning Authority against the appellants.

SUBMISSION ON BEHALF OF THE LOCAL PLANNING AUTHORITY

2. In support of the application the local planning authority referred to paragraph 20 of Circular 2/87. They considered that it was unreasonable of the appellants to have appealed when it must have been obvious from official statements on Green Belt policy that a major departure from the approved Green Belt, such as this, had no reasonable prospect of success.

SUBMISSION ON BEHALF OF THE APPELLANTS

3. In reply it was stated that if the matters at issue had simply been in conflict with approved Green Belt policy an appeal would not have been justified. The appeal site is not in an area where housing in the Green Belt is never likely to take place. It is those circumstances which paragraph 20 is directed towards not those which arise in this case.

4. The whole reason for the appeal is that Structure Plan policy is in a state of change. The proposed policies in the submitted Review actually postulate new housing on the edge of towns in what has hitherto been Green Belt. Such sites in the Council's area for about 750 dwellings are likely to have to be found in the very near future. There is already a serious shortfall of land for housing and it is therefore plain that some Green Belt land such as the appeal site will need to be released. In those circumstances it is reasonable for the appellants to put their case for their land.

CONCLUSIONS

5. In my view the need identified in the submitted Review of the Structure Plan to examine the boundary of the Green Belt around towns and to accommodate some of the housing growth to 1996 on suitable land currently identified as Green Belt introduces an element of uncertainty which paragraph 20 of Circular 2/87 does not anticipate.

6. I do not share the sense of immediacy with which the appellants invest their case for the release of this site nor, in advance of approval of the Review Structure Plan or the more detailed assessment of options through the review of the District Plan, do I share their view that the appeal site would be a suitable site to meet some of the future housing needs of the District. Nevertheless since the submitted Review Structure Plan is a material consideration I do not find it unreasonable that they should seek to establish the suitability of the appeal site since in general locational terms it meets at least one of the criteria envisaged in the Review Structure Plan.

7. The Council do not argue that they drew the appellants' attention to the relevant facts and to the possible consequences of persisting with an appeal.

RECOMMENDATION

8. I recommend that no award of costs be made.

I have the honour to be
Sir
Your obedient Servant

A D KIRBY RD MA MSc FRTPI

TOWN AND COUNTRY PLANNING ACTS 1971 and 1972

To: C Selly
Weedon Hill Farm
Weedon
Nr Aylesbury
Bucks

P Metcalf
3 Western Road
Tring
Herts

The reasons for the Council's decision to refuse permission for the development continued.....

- (4) The proposed layout is unsatisfactory and would result in a poor residential environment. Furthermore, the proposals make inadequate provision for landscape planting both within the site and on the north and east boundaries.
- (5) The proposed highway layout is unsatisfactory and would result in inconvenience and potential danger to residents and road users.

Dated 28th

day of

November

1985

Signed

CHIEF PLANNING OFFICER