

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To

Mr T Bowen
"Ladywood"
Langley Road
Chipperfield

Messrs Faulkners
49 High Street
Kings Langley
Herts WD4 9HU

Herts

... Removal of agricultural occupancy condition

at Greinan Farm, Chipperfield Road, 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 .. 7. August 1989 and received with sufficient particulars on .. 21. August 1989 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 the Metropolitan Green Belt on the adopted Dacorum District Plan wherein permission will only be given for the construction of new buildings for agricultural or other essential purposes appropriate to a rural area. Whereas the erection of a new dwelling for occupancy by a person engaged in agriculture is considered acceptable there is no justification for unrestricted occupancy in this case where the replacement is neither of similar size or comparable location to the original prefabricated bungalow.

Dated .. Twenty eighth .. day of .. September .. 89

Signed ..

SEE NOTES OVERLEAF

P/D.15

Chief Planning Officer

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.



**Planning Inspectorate
Department of the Environment**

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1/200
JCB

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KINGS LANGLEY
Hertfordshire
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**PLANNING DEPARTMENT
DACORUM BOROUGH COUNCIL**

Your reference

MDC/11945

Our reference

4/APP/A1910/A/89/138686/P7

Date

25 APR 90

Pot.	ack.
C.P.O.	U.P.L.
D.P.	O.C.
B.C.	Admin.

26 APR 1990

Received

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR T BOWEN
APPLICATION NO: 4/1396/89

1. As you know I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Dacorum Borough Council to refuse to vary planning permission no. 4/0400/89, described as for the erection of detached agricultural dwelling (replacement) at Greinan Farm, Chipperfield Road, Bovington, by the deletion of condition 5. That condition provides that "the occupation of the dwelling shall be limited to a person solely or mainly employed or last employed locally in agriculture as defined in section 290 of the Town and Country Planning Act 1971 or in forestry, a dependant of such a person residing with him or her or a widow or widower of such a person". I held a hearing into the appeal on 4 April 1990.
2. The site is within the Metropolitan Green Belt, in a location where it is agreed a new dwelling would not be acceptable, as a significant contravention of the restraint policies, in the absence of some special justification. There is an issue between the parties as to the circumstances in which the application for the consent for a dwelling was made, and as to the basis on which, exceptionally, that consent was granted. You contend that it was intended purely as a replacement dwelling, whilst the Council maintain that an agricultural need was claimed, at least in part, and hence the restricted occupancy condition was incorporated.
3. However it seems to me, as was agreed at the hearing, that whatever the circumstances of the application, I must now apply such of the policies as may be relevant in all the prevailing circumstances. Policy 6 of the Dacorum District Plan provides that planning permission for replacement dwellings within a group of dwellings which is likely to remain will be permitted (sic) although the new dwelling should be of similar size to that which it replaces and should not be more intrusive in the landscape. The proposal is for a replacement dwelling, and so if it should substantially accord with Policy 6 I consider it would thereby be acceptable. Whether or not intended to serve an agricultural need, my view is that it would be improper to burden the consent with the restricted occupancy condition at issue, where the original dwelling is not subject to that condition, unless the scheme should be outside the terms of Policy 6 and justifiable only on the ground of agricultural need. Accordingly I shall assess first whether it would conflict with the aims of the policy permitting replacement dwellings.
4. Implicit in that policy is the recognition that even in the Green Belt a new dwelling can be provided in substitution for an existing building without harm to

the objectives of restraint provided its size is not such as to increase materially the activity it is likely to generate, and if it can be assimilated into a group of other dwellings.

5. In this case an outworn bungalow with habitable floor space of some 80 sq m is the subject of a scheme for replacement with a new dwelling, and for which an outline consent has been granted. A condition has been imposed that the habitable floor area of the new dwelling should not exceed 200 sq m. That represents what the Council consider a reasonable limit on floor space, although admittedly in the context of what is thought to be appropriate for the agricultural enterprise. In those circumstances it seems to me that whilst a larger dwelling might be provided than the existing one, a considerable proportion of the extra floor space is likely to be utilised in providing a better layout and more modern facilities than are present in the rather cramped and inadequate accommodation I saw to be presently available, and there is unlikely to be an appreciable increase in the potential occupancy level afforded. So on that count I do not regard the scheme as breaching materially the terms of Policy 6.

6. The new dwelling is not to be sited in the same position as the old, nor do I think it could strictly be described as proposed to be within a group of dwellings likely to remain. There is a uniform ribbon of frontage development along Chipperfield Road interrupted only by the section taken up where the Greinan Farm land abuts. This has the existing dwelling in one corner, the farm access and some farm buildings in proximity. The scheme is to site the new dwelling in a paddock to the rear, some 130 m or thereabouts from the road frontage, but within the farm boundaries and near the bulk of the farm buildings.

7. The farm and immediate surroundings are on fairly level ground. That, and the presence of boundary hedges, means that the new dwelling would be no more obtrusive than the old when viewed at close quarters from the road. The open land to the rear falls away somewhat in a northerly direction, affording more distant views of the farm, but I consider that what is proposed would relate well to the existing farm buildings when viewed from this sector, and would not be seen as a significant increase in the overall mass of buildings. In the light of these factors, my conclusion is that it would not appear isolated and prominent in the landscape in a manner which Policy 6 seeks to avoid, and so on this ground also an objection is not to be substantiated.

8. I therefore arrive at the conclusion that the scheme for which consent has been granted can properly be regarded as for a replacement dwelling not detracting unduly from the objectives of Green Belt policy, and accordingly requires no justification on the ground of agricultural need so as to warrant the imposition of the condition in dispute. Having considered all other matters raised in the case, amongst which I find nothing to outweigh that conclusion, I make my decision accordingly.

9. 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 a dwelling at Greinan Farm, Chipperfield Road, Bovington in accordance with the application no. 4/1396/89 made on 7 August 1989, 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;

3. the bungalow indicated as "existing dwelling" on the approved plan, which the dwelling hereby permitted will replace, shall be demolished within 3 months of the first rateable occupation of the development hereby permitted;

4. the habitable floor area of the dwelling hereby permitted shall not exceed 200 sq m;

5. notwithstanding the provisions of the Town and Country Planning General Development Order 1988 or any amendments thereto, there shall be no extension or addition to the building hereby permitted without the express written permission of the local planning authority.

10. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission and 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.

11. 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



J M TURNER LLB Solicitor
Inspector

APPEARANCES

FOR THE APPELLANT

Mr M D Carter ARICS FAAV

- Senior Assistant, Messrs Faulkners.

FOR THE PLANNING AUTHORITY

Mr J E Knapp DipTP MRTPI

- Principal Planner, Dacorum Borough Council.

DOCUMENTS

Document 1 - List of persons present at the hearing.

Document 2 - Notification of hearing and circulation list.

PLANS

Plan A - Application plan.