

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To Messrs. R & E J Eggleton
4 The Bit
Wigginton, Nr. Tring,
Herts.

Nigel Freeth Esq. ARICS
Messrs. Freeth & Co.
The Market House
High Street, Tring, Herts.

..... Bungalow and garage.....
.....
at .. land adjoining 21 Osborne Way, Wigginton.....
.....

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
..... 19th November 1982..... and received with sufficient particulars on
..... 22nd November 1982..... 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 as being within the extension of the Metropolitan Green Belt in the Approved County Structure Plan (1979) and the Dacorum District Plan, wherein permission will only be given for use of land, the construction of new buildings, changes of use or extension of existing buildings for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is unacceptable in the terms of this policy,

Dated 6th day of January 1983

Signed.....

Chief Planning Officer

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, 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.
- (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.



**Department of the Environment and
Department of Transport**

Common Services

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CHIEF EXECUTIVE
OFFICER 2
23 MAR 1984
Refer to **23/3**
Cleared **8887**

Messrs A F Barker and Co
Solicitors
69 Marlowes
HEMEL HEMPSTEAD
Hertfordshire
HP1 1LE

Your reference:

AFB/DW/EP26/INING DEPARTMENT
Our reference DACORUM DISTRICT COUNCIL

T/APP/A1910/A/83/002229/PE3

Date	4/1397/82	Ack.
C.P.O.	21 MAR 84	Admin. File

Received	26 MAR 1984
Comments	

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY R & E J EGGLETON
APPLICATION NO: 4/1397/82

- I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Dacorum District Council to refuse planning permission for the erection of a 3-bedroom detached bungalow and garage on land adjacent to No 21 Osborne Way, Wigginton, Hertfordshire. As you know, I held an inquiry into the appeal on 31 January 1984.
- From my consideration of all the evidence given both at the inquiry and in writing, and from my inspection of the site and its surroundings, I have come to the conclusion that the main issues in this case are whether the proposed development would satisfy the requirements of Policy 4 of the adopted Dacorum District Plan and, if not, whether there are nevertheless special circumstances which would justify permitting the proposed dwelling as an exception to the normal requirements of that policy.
- Policy 5 of the Dacorum District Plan states that small scale residential development may be permitted in Wigginton, which lies within the Metropolitan Green Belt, provided that 4 criteria - relating to the physical character of the site and the development - are satisfied and provided also that it is in accordance with Policy 4. The appeal site lies within the village boundary as defined by the local planning authority and the council have no objection to the design or siting of the proposed bungalow or garage. One local resident objects to the proposed access to Wick Lane but the Highway Authority has raised no objection to the proposed development and I find no substantial reason for this objection. It appears, therefore, that the proposed development meets the physical requirements of Policy 5.
- Policy 5, however, requires that residential development in Wigginton should also be in accordance with Policy 4 which states that development within any settlement in the Metropolitan Green Belt will not normally be permitted other than for "essential uses appropriate to the rural area" which it defines as "the housing and employment needs of agriculture, forestry, leisure and local services in the rural part of the District that cannot practicably be located elsewhere" and the local facilities and service needs of individual rural settlements". No evidence was presented to demonstrate that a dwelling for Mr and Mrs Eggleton on the appeal site is necessary to local agriculture, forestry, leisure facilities or services.

Received	23 MAR 1984
Comments	

5. You contend that the proviso in Policy 5 tying it to Policy 4 is unreasonable in that it imposes even greater restrictions on residential development within the defined boundaries of named settlements in the Metropolitan Green Belt than apply outside their settlements. However, the Dacorum District Plan is an adopted, statutory Local Plan and its Policies 4 and 5 seem to me entirely consistent with Policy 15B of the Submitted Alterations to the Hertfordshire County Structure Plan. You contended also that the council's decision was inconsistent with paragraph 5.21 of the District Plan since your clients' present dwelling is clearly underoccupied. But paragraph 5.21 should be read, in my view, together with Policy 63 which states that, as a general principle, housing development will be concentrated in Hemel Hempstead, Berkhamsted and Tring and which refers specifically, in relation to other areas, to Policies 4 and 5.

6. The phrasing of Policy 4, however, permits me to consider whether there are in this case special circumstances which justify allowing the proposed development as an exception to the normal requirements of that Policy. I am inclined to accept your contention that, had it not been for the temporary need for independent sewage disposal, the appeal site would have been developed when Osborne Way was constructed in 1960; it seems to me likely that, had it not been for the location of the sewage disposal plant on the appeal site, No 21 Osborne Way would have been located directly opposite No 1 making the layout symmetrical. However, a great many undeveloped sites in villages exist because of some historical circumstance which no longer applies. I cannot regard this as exceptional. The appeal site is at present unkempt and is evidently regarded by residents of Osborne Way as an eyesore. However, it does not seem to me seriously detrimental to the amenities of the village as a whole nor do I consider that the proposed development is the only practicable means of improving its appearance or of preventing the dumping of rubbish on it. I recognise that your clients' present house is larger than they need and fully appreciate their desire to move to a smaller bungalow while remaining in the village where they have been life-long residents. I recognise also that the proposed development represents for your clients a rare opportunity to acquire some capital to improve their prospects on retirement and that this is a perfectly reasonable ambition. None of these personal circumstances, however, are exceptional nor, in my opinion, of sufficient weight to override the statutory policies of both the District Plan and the County Structure Plan which are intended to constrain the enormous pressures for residential development in this part of the Metropolitan Green Belt.

7. I have given the most careful consideration to the previous appeal decisions to which my attention was drawn and, in particular, to the decision in the case of development at Potten End (ref T/APP/5252/A/82/9308/G10). I note also that in refusing a previous application to develop the appeal site in 1979 the council made no reference to Green Belt policies and indeed suggested that detailed plans be submitted. Since then, however, the Dacorum District Plan has been adopted, following Public Inquiries, and has included - apparently at the insistence of the County Council - the proviso in Policy 5 that development in Wigginton should also be in accordance with Policy 4. In the Potten End case, the Inspector took the view that there were special circumstances - including the physical characteristics of the site - which justified making an exception to the normal restrictions on occupancy within the Green Belt. As I have explained above I do not consider that the circumstances in this case warrant such an exception.

8. I have noted all the other matters raised in evidence both at the inquiry and in writing but do not find that they outweigh the considerations which have led me to these conclusions.

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

10. I have informed the Secretary of State that your clients made an application for costs and have reported to him the gist of your argument, presented at the Inquiry, in support of that application and the gist of the council's response to that application.

I am Gentlemen
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'W J C Redpath', with a horizontal line extending from the end of the signature.

W J C REDPATH DipArch RIBA
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr A F Barker

- Solicitor, Messrs A F Barker and Co, 69 Marlowes, Hemel Hempstead, Herts HP1 1LE.

He called:

Mr R Eggleton

- An appellant.

Mr A E King BA(Hons) BPL
MRTPI

- Chartered Town Planner and Architectural Consultant.

FOR THE PLANNING AUTHORITY

Mr G Grynowski

- Solicitor, Dacorum District Council.

He called:

Mr J Jackson BSc DipTP MRTPI

- Assistant Planner, Dacorum District Council.

SECTION 29 PARTIES AND INTERESTED PERSONS

Mr D Mead

- 7 Chesham Road, Wigginton.

Mr A Whitehead

- District Councillor.

Miss R Whellock

- Clerk to Wigginton Parish Council 'Snai Rig', The Twist, Wigginton.

DOCUMENTS

Document 1 - List of persons attending the Inquiry.

2 - Notice of Inquiry and distribution list.

3 - Extract from minutes of Planning Committee meeting on 4 January 1979 (Application No 4/1521/78).

4 - Officers' recommendation to Planning Committee regarding Application No 4/1397/82).

5 - Extract from Adopted Dacorum District Plan.

6 - Extract from Approved County Structure Plan.

7 - Extract from the Submitted Alterations to the County Structure Plan.

8 - Planning History of the Appeal Site.

DOCUMENTS (Cont'd)

- Document 9 - Appeal decision letter ref T/APP/5252/A/82/9308/G10.
- " 10 - Appeal decision letter ref T/APP/5252/A/82/07477/G5.
- " 11 - Appeal decision letter ref T/APP/A1910/A/83/4459/PE4.
- " 12 - Details of houses recently for sale in Wigginton.
- " 13 - Letter from local resident handed in at Inquiry.
- " 14 - Letters from Mr D Mead handed in at Inquiry.

PLANS

- Plan A - Application Plan, 1:500, 1:50, site plan, floor plan and elevations.
- " B - Location Plan, 1:2500.
- " C - Plan showing land uses in Wigginton, 1:2500.