

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972



## DACORUM BOROUGH COUNCIL

To Burlington Developments Ltd  
c/o Ian H Leek FRICS  
32 Jennings Field, Straight Bit,  
Flackwell Heath  
Bucks

Ian H Leek FRICS  
32 Jennings Field  
Straight Bit  
Flackwell Heath  
Bucks

## Residential Development (Outline)

Land rear 13-31 Abbots Rise, Kings Langley  
at

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 9 September 1987 and received with sufficient particulars on 10 September 1987 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 use of land, the construction of new buildings, changes of use 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 22 day of October 1987

Signed *W. B. B. B. B.*

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**

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ  
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25717

TEAM 1

**CHIEF EXECUTIVE  
OFFICER**

7 JUL 1988

File Ref. CPO 7/7  
Notes to CPO 7/7  
Clear

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**DACORUM DISTRICT COUNCIL**

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4/1400/87				Act.
P.O.	D.C.	S.C.	S.C.	Admin.
Received - 7 JUL 1988				Your reference 110/87/ST
				Our reference T/APP/A1910/A/88/085715/P2
Comments				Date:

- 5 JUL 1988

Gentlemen

**TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9**  
**APPEAL BY BURLINGTON DEVELOPMENTS LIMITED**  
**APPLICATION NO:- 4/1400/87**

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Dacorum Borough Council to refuse planning permission for residential development on land at rear of 13-33, Abbots Rise, Kings Langley. I held a local inquiry into the appeal on 21 June 1988 at which an application for costs was made by the Council against your clients and I deal with this separately below.

**APPEAL**

2. Having inspected the site and surrounding area and taken into account the evidence presented to me at the inquiry as well as written representations, I consider the main issue in this appeal to be whether there is sufficient justification to warrant an exception being made to the normal presumption against development in the green belt.

3. The appeal site has an area of about 0.85 hectares and is situated to the south of the built-up parts of Hemel Hempstead and to the north of the main village area of Kings Langley. It is in an area of mostly frontage housing and vehicular access would be from Abbots Rise at a point where that highway rises steeply from the A41.

4. The land is the subject of a Tree Preservation Order, although many trees within the site were removed prior to the Order being imposed. A deemed planning consent was given by the County Council in 1978 for two bungalows on part of the land; that consent was never implemented and has now lapsed.

5. The present scheme is in outline form, but an illustrative layout plan submitted by your clients indicates a cul-de-sac development with 11 detached houses and garages. The remaining trees within the site as well as the boundary trees are shown as being retained.

6. You accepted on behalf of your clients that as the site was within the Metropolitan Green Belt, and that designation was of national importance, it

would be necessary for you to demonstrate clearly the reasons for permitting this development. It was suggested that certain forms of housing such as infilling or rounding-off, are acceptable in green belts and the appeal site had been identified up to 1979 in the village plan for Kings Langley for housing. Furthermore, planning permission had been given on part of the land for two bungalows. Due to the fact that the land is surrounded by built development, the proposed scheme would not involve the expansion of housing into the countryside and would not be contrary to green belt objectives.

7. It was also suggested that in assessing the 5 year supply of housing land, the Council had not based their formula upon the advice given in Government Circulars. They had also included an element of prison wardens accommodation which would not be available to most members of the public and would result in a shortfall of about 182 dwellings.

8. Dealing firstly with the green belt issue, I gained the impression from walking and driving around the locality that the areas of land between the southern boundary of Hemel Hempstead and the main village area of Kings Langley, provide a clear buffer of rural land between the two built-up areas. Whilst the Abbots Rise locality does contain housing, when viewed from Hempstead Road, the dwellings appear scattered amongst substantial areas of wooded land. When entering Abbots Rise and Abbots View, the appearance does change to that of a fairly low density housing area. The first section of Rucklers Lane has a similar appearance although further along that highway the development is more scattered.

9. My impression of the appeal site was that it forms part of a generally open area of land running between the rear of properties in Abbots Rise and Hempstead Road and creating a rural setting for those dwellings. I accept that since the removal of many of the trees from the central areas of the land, it could not be described as wooded and does in parts appear derelict, but it still provides an open and undeveloped character to the vicinity.

10. In advising upon development in green belts, Planning Policy Guidance No.2 states that green belts often contain areas of attractive landscape, but that the quality of the rural landscape is not a material factor in their designation or their continuing protection. Furthermore, the essential characteristic of such areas is their permanence and their protection must be ensured for as far ahead as possible. Some development may be appropriate in green belts, but it must depend upon the particular site and form of development.

11. There is some building in this locality, but it is a relatively small grouping of mostly older housing and they are closely bounded by rural land. In my judgement to consolidate this area of housing would create a built-up appearance to the locality, contrary to the objectives of green belt policy. It is also likely that if I were to accept the principle of building on this land it would be difficult for the Council to resist development upon other nearby sites which are also within this small settlement. The cumulative effect of such development would be to create a large built-up area close to the urban areas of Hemel Hempstead and which would be contrary to the stated objective of green belt policy to check the unrestricted sprawl of those communities into the countryside.

12. Turning to the question of the housing land availability figures, I note your comments about the Council's method of arriving at the totals as well as the content. However, in identifying land for housing, Planning Policy Guidance No 3 states the Government's commitment to the maintenance of long

established conservation policies, including green belts. It also suggests that new housing should be well related in scale and location to existing patterns of settlements.

13. Between the southern boundary of Hemel Hempstead and the main village area of Kings Langley, the green belt land is quite narrow and in my view to permit further housing within that gap would only serve to extend existing areas of development and cause significant encroachment into the countryside. For these reasons, I am of the opinion that the points raised regarding housing land availability figures should not outweigh the green belt considerations .

14. I have taken into account all other matters raised at the inquiry and in the written representations, including the residents fears regarding road safety, but none outweighed the considerations which led to my decision.

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

#### APPLICATION FOR COSTS

16. In support of the Council's application for costs it was said that the appellants appeal was unreasonable and their rights in such a matter had not been exercised in a proper manner. The land was designated for green belt purposes and no special reasons had been put forward to claim the proposal as an exception to the normal presumption against such development. The recently approved Structure Plan does not indicate the area for housing and therefore the appellants should have been aware that the appeal would be unlikely to succeed.

17. In reply, it was said on behalf of your clients that they had a statutory right to appeal and be heard at a public inquiry. There had been no other recent cases of dismissed appeals in the vicinity from which to gain advice, on the contrary, a nearby appeal had been allowed, albeit that development was at a different scale. The proposed scheme was an acceptable rounding-off of development in the green belt on a site of less than 1 hectare. Such small scale proposals had a reasonable chance of success and did not warrant an award of costs.

18. I have considered the application for costs in the light of Circular 2/87, the appeal papers, the evidence submitted by both parties and all the relevant circumstances of this appeal. I have also borne in mind that in planning appeals not only are the parties normally expected to meet their own costs, but the right of appeal is a statutory right. In these circumstances, it would only be correct for an award of costs to be made if the appellant had exercised that right in an unreasonable manner.

19. Although I did not agree with the appellants proposal for developing this green belt land, there may be some cases where new housing in such areas would be acceptable. Furthermore, there were no appeal cases raised at the inquiry which would have given the appellants a clear indication that they would be unlikely to succeed at this appeal. Indeed, as the appellants mentioned, there has been an appeal allowed on adjacent land, although of a different scale; planning permission had also been given for two bungalows on part of this land in 1978. Circular 2/87 points out that the Planning Authority would strengthen their case for an award of costs if they can show that they drew the appellants attention to the relevant facts and possible consequences of persisting with an appeal. That was not done in this case.

20. For the reasons I have given, I do not consider that this appeal was unreasonable and in exercise of the powers transferred to me, I hereby determine that the application for costs against your clients be refused.

I am Gentlemen  
Your Obedient Servant

*D. G. Hollis.*

D.G.Hollis BA DipTP MRTPI  
Inspector

NORTHGATE  
DOCUMENT STAMPED  
TO ENSURE DETECTION  
BY SCANNER