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Department of the Environment and Department of Transport

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CHIEF EXECUTIVE
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29 JUL 1987

File ref.

Refer to CPO 29/7
Closed

Fuller Hall & Foulsham
Town Planning Consultants
81A Marlowes
HEMEL HEMPSTEAD HP1 1LF

3)RB. Your reference: PRB/jcr/4100

Our reference: T/APF/AT916/A787005243/P3

Date:

PLANNING DEPARTMENT					
Ref. <u>28 JUL 87</u>				Ack.	
C.P.O.	D.P.	D.C.	B.C.	Admin.	File
Received <u>29 JUL 1987</u>					
Comments					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 35 AND SCHEDULE 9
APPEAL BY MR & MRS ASHWORTH
APPLICATION NO:- 4/1511/86

1. 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 outline planning permission for the erection of an 80 bedroom residential home for the elderly on land adjacent to Caddington Hall and The Lodge, Luton Road, Markyate. I have considered the written representations made by you and the council, together with those of the Markyate Parish Council, the South Bedfordshire District Council and interested persons. I inspected the site on 2 July 1987.

2. From what I have seen and read I consider that the main issue in this appeal is whether a development of this size would seriously harm the character of the area, bearing in mind relevant established and emerging planning policies.

3. The council have referred to the status of the land as part of an Agricultural Priority Area, as defined in the adopted District Plan. I also note that it adjoins an Area of Outstanding Natural Beauty, and that the County Council have formally submitted, at an examination in public, that the site and its surroundings should be included in an extension to the designated green belt, as part of Alterations to the Approved Structure Plan.

4. Having driven around Markyate I saw that the appeal site is well outside the main area of the village. Despite the presence nearby of a small area of dwellings on the opposite side of Luton Road, and sporadic buildings on the same side, I saw that the site and its surroundings are indubitably rural in nature. The area of trees covering about half the site nearest to the road are part of a wider band of attractive, mature planting with high amenity value. I note your point that some of the trees are becoming stag-headed, but I gained the impression that the great majority are in good condition.

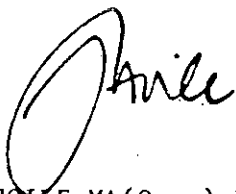
5. This outline proposal contains no details about the size or positioning of the proposed home, nor the inroads it would make on the wooded area of the site. Although I do not doubt that a considerable number of trees could be retained in designing a detailed scheme, the sheer size of the accommodation and the attendant parking and access provision would inevitably result in a loss of rural character. The resultant building would be a large and isolated structure, unrelated to The Lodge or Caddington Hall, but introducing an element of suburban sprawl to a country road.



6. I accept your contention that there is no obviously profitable commercial use for the land at present. Nevertheless, what is now proposed would harm the appearance of an area where there are well established and, in my view, well justified planning policies to retain open countryside. I acknowledge your reference to the changes in national policy on agricultural land. However, Circular 16/87 stresses the national commitment to preserve the countryside for its own sake; in your clients' appeal I conclude that this consideration outweighs the general presumption in favour of allowing proposals for development. I have taken into account all other matters raised in the representations, but they do not outweigh the planning considerations that have led to my decision.

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

I am Gentlemen
Your obedient Servant

A handwritten signature in cursive script, appearing to read 'Hoyle', written in dark ink.

C J HOYLE MA(Oxon) DipTP MRTPI
Inspector

Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

Under the provisions of Section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case maybe, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DD



DACORUM BOROUGH COUNCIL

To Mr & Mrs Ashworth Fuller Hall & Foulsham
Mayfield (Hemel Hempstead)
Luton Road 81a Marlowes
Markyate Hemel Hempstead

... Erection of 80 bedroom residential home for the
... elderly (outline application)
at Land adj. to Caddington Hall and The Lodge
... Luton Road, Markyate

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 dated16. October. 1986..... and received with sufficient particulars on27. October. 1986..... 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 a rural area beyond the 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.
- (2) The site is within an Agricultural Priority Area where planning permission will not normally be granted for development which adversely affects the character of the countryside and which is not required for the purposes of agriculture or forestry. The proposed development is not required for either of these purposes and would be an undesirable intrusion into an existing wooded area adversely affecting the character of the area.

DatedSixth..... day of ..December.....19.86...

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.