

B/121/18.6

**Department of the Environment**

Room 1320

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No.

DATE

27 JUL 1979

Your reference
SP/MMD/155Our reference
T/APP/5252/A/79/01610/G6

Date

26 JUL 1979

The Clark Partnership
127 High Street
RICKMANSWORTH
Herts
WD3 1AW

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR R E BURNE
APPLICATION NO:- 4/1669/78

I refer to your client's appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for the erection of a new bungalow to replace the existing, at "Field Bungalow", Whippendell Hill, Chipperfield. I have considered the written representations made by you, the council, the parish council and an interested person. I inspected the site on Monday 11 June 1979.

2. From my inspection of the appeal site and surroundings and from the representations made, I am of the opinion that the main issue is whether the existence of the bungalow on the appeal site in this location, and its form of construction and state of repair, are special circumstances which are sufficient to override the council's policy of restricting the erection of new dwellings in the green belt.

3. Although the application is expressed to be in outline, the information accompanying it on the application form and plan, and in the representations on behalf of your client, indicate that the proposed bungalow would have a floor area of about 183 sq m, about 50% larger than that of the existing bungalow. Accordingly I am taking this into account in my consideration of the application.

4. The existing bungalow has a floor area of about 120 sq m but because it is built in 2 main sections its double pitched roof is fairly modest in height. Although its main walls are constructed partly with brick and partly with a timber frame, the difference in construction is masked by the uniform appearance of the external rendering and the tiled roof. The building is in very poor condition in a number of places due to its age, form of construction and neglected maintenance.

5. Its site of about 1.6 ha rises fairly steeply from the bottom of a dry valley and the bungalow stands near the south-west boundary, which is the highest part of the site. The valley, which is known locally as Whippendell Bottom, is of some significance because it lies about 25 m below the general land level on each side and it crosses the road which links the villages of Kings Langley and Chipperfield. This road is lined with dwellings, mainly on its north-west side, almost without a break between these 2 villages. There is a break of nearly 250 m in this development at Whippendell Bottom and as the road descends there are views from it of the surrounding open countryside along the valley in both directions. Although there are several other dwellings in the valley, most of them are set back from the road and they appear as relatively minor features in the predominantly open surroundings. Your client's existing bungalow is clearly visible from the road when approaching from the Kings Langley direction because it stands on open land well above the valley bottom, against the background of the trees standing further up the slope.

6. During my inspection of the surroundings, my attention was drawn in particular to 3 other dwellings. The dwelling in Megg Lane which had been extensively rebuilt and enlarged is situated in a row of other dwellings, unlike your client's bungalow. Irrespective of the circumstances which led to the permission to rebuild, The Lodge, Woodmans Farm (Dunny Cottage) is being reconstructed in an earlier style and without any significant increase in size. The bungalow known as "The Spinney" is quite near to the appeal site but stands on the other side of the valley. I note that it was built about 5 years ago to replace an earlier building and extensions. However, it is associated with a riding stable which might be regarded as an appropriate use in the green belt, and the building is screened from view by trees in a more effective way than your client's proposed bungalow could be.

7. I consider that the open character which the green belt seeks to maintain is already diminished by the appearance of the dwellings which line most of the road between Kings Langley and Chipperfield. The proposed dwelling would be fairly conspicuous wherever situated on the appeal site. With a 50% larger floor area, together with its garage, driveway and outbuildings, I am of the opinion that the proposed dwelling would be much more noticeable than the existing one and would be unduly detrimental to the character of the area which immediately surrounds it.

8. The council states that it is prepared to consider modest proposals to refurbish and extend the present building and I have little doubt that any dwelling on this site would be attractive to many people. Because of the substandard form of construction of much of the building, it is likely that anyone undertaking such work would have to rebuild most of the external walls, and would use the opportunity to improve the internal room layout. However, the general appearance and size of the building, including its roof, would be likely to remain of the fairly modest size as at present, rather than the substantially larger and more conspicuous building which your client proposes. If such a modest sized building had been proposed, I consider that it could have been achieved better by a new building, following the complete demolition of the existing structure, rather than with the extra expense and difficulty of extensive repairs which would amount to an almost complete replacement of the building anyway. However, the proposed bungalow would be much larger than the present building, and I consider that such a bungalow would be detrimental to the green belt surroundings for the reasons I have already given. Therefore I have decided to dismiss your client's appeal.

9. I have taken into account all the other matters in the representations, but they do not outweigh the considerations that led me to my decision.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss your client's appeal.

I am Gentlemen
Your obedient Servant

D. J. Tuckett

D J TUCKETT, ARICS MRTPI
Inspector

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 may be, 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

Other

Ref. No.

DACORUM

THE DISTRICT COUNCIL OF

IN THE COUNTY OF HERTFORD

To Mr. R. E. Burne,
5 Box Lane,
Boxmoor,
HEMEL HEMPSTEAD,
Herts.

Messrs. Clark Partnership,
127 High Street,
RICKMANSWORTH,
Herts.

Replacement Bungalow

at "Field Bungalow", Whippendell Hill, Chipperfield.

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
..... 15th December, 1978, and received with sufficient particulars on
..... 18th December, 1978, 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 County Development Plan and in an area referred to in the submitted County Structure Plan Written Statement within which there is a presumption against further development unless it is essential for agricultural or other special local needs - no justification has been proven to warrant departure from this principle.

Dated 25th day of January, 19 79.

Signed.....

Designation.....

Director of Technical Services.

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, Whitehall, London, S.W.1.) 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.