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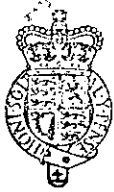
**CHIEF EXECUTIVE
OFFICER**

2 NOV 1987

File Ref.

Refer to *clp 3/11*

Cleared



PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL					
Mr	Mr	Mr	Mr	Mr	Mr
CFO	DP	CC	BC	Admin	File
Received			3 NOV 1987		
Comments					

Mr H S Cawdery
Norvic
Tring Hill
Near TRING
HP23 4LD

Your reference

Our reference

T/APP/A1910/A/87/067772/P3

Date

30 OCT 87

1/1 MB
2/1 MB
3/1 MB

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/1789/86

- I have been appointed by the Secretary of State for the Environment to determine your appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the erection of 2 dwellings on land at Fox Road, Fox Close, Wigginton. I have considered the written representations made by you and by the council and by Wigginton Parish Council and also those made by interested persons. I inspected the site on 26 August 1987.
- The appeal site is located close to the north-eastern edge of Wigginton and consists of a landscaped area of .16 ha surrounded by 14 chalet bungalows. It is grassed and is planted with a variety of trees and shrubs. A mature hawthorn hedge approximately 3 m high runs along the north-eastern boundary with Fox Road. The Fox Close estate road extends around the rest of the boundary. There is a row of dwellings on the other side of Fox Road. Beyond Fox Close and the development on Fox Road there is open countryside to the east, north and west.
- From my visit to the site and surroundings and my reading of the representations I have come to the conclusion that the main issues in this case are firstly whether the proposed development would prejudice approved planning policies, secondly, whether it would have a harmful effect on the visual amenity of Fox Close and the surrounding area, and thirdly, whether additional traffic generated by the development would cause danger to other road users.
- The approved Hertfordshire Structure Plan shows the site and surrounding area to be included within the Metropolitan Green Belt where permission for new development is not granted except for essential purposes appropriate to a rural area. It is also included in the Chiltern's Area of Outstanding Natural Beauty, where the local authority maintains a strict policy in relation to the siting, design and external appearance of buildings. The adopted Dacorum District Plan develops these policies in detail. Policies 4 and 5 of that Plan state that planning permission may be granted for small scale infilling.
- As far as the Green Belt is concerned the Government continues to maintain the strict policies which have been in force for a considerable period of time. Whilst your proposal cannot be, in my opinion, described as infilling in the sense of the filling of a small gap in an otherwise built-up frontage I do not consider that the appeal site makes a significant contribution to the Green Belt and its development would not involve encroachment into the open countryside. Similarly, as I discuss in paragraph 7, whilst this landscaped space is visually significant in terms of

the houses in Fox Close I do not consider that it is crucial to the character of the Chiltern's Area of Outstanding Natural Beauty where to my mind the fundamental objective is to preserve the natural beauty of the landscape. The District Council, the Parish Council and objectors have submitted that the proposal is not in accord with Policies 4 and 5 of the District Plan in that no justification has been advanced for the development on the basis of local need. On the other hand no specific evidence has been submitted to indicate that there is not such a need. I have given careful consideration to the implication of these policies and have come to the conclusion that in themselves they do not constitute grounds for dismissing the appeal.

6. On the second issue, however, it does seem to me that there are strong objections to your project. The Council has indicated that the site was part of the overall layout of the Fox Close development which was approved in 1957. From my observations and reading of the representations it is quite clear to me that the appeal site is an integral part of Fox Close which has been carefully maintained by the residents. To allow development on this land would, I believe, be incompatible with the amenities which residents of Fox Close could reasonably expect to enjoy. You have suggested that if the site is not developed as you propose it would become a market garden or leisure plot. This is not a matter for my determination but it would seem to me that planning permission would be required to enable this to happen.

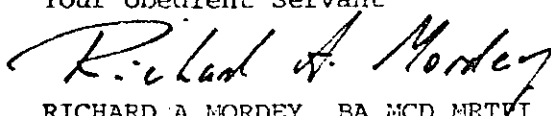
7. Residents have also expressed concern at the increase in traffic which would result from the proposed development. From my observations the visibility at the 2 junctions of Fox Close with Fox Road is inadequate. Drivers in the stopped position 7ft back from the edge of the main road have their view of traffic in both directions obscured by the high hedge which runs along the frontage of Fox Road. As I understand it only that part of the hedge which forms the north-eastern boundary of the appeal site is within your control. The problem at the northern access is aggravated by the bend and verticle alignment of the road. I consider Fox Road to be a busy road and from my own observations and experience I am of the opinion that the restricted visibility is a potential source of danger and accident. Consequently it is my view that development which would generate additional traffic should not be permitted.

8. You have referred to the fact that planning permission has been granted for a house which has been constructed to the rear of No 1 Fox Close and for 17 dwellings at the junction of Highfield Road and Fox Road. It is clear to me that the circumstances of those sites are quite different from those in respect of your land particularly in that they did not form an integrated landscaped space within a housing scheme. As far as the second site is concerned I have read in the decision letter following the local inquiry of 30 September 1986 (T/APP/A1910/A/86/046078/P2) that the inspector considered that the proposed sheltered housing would make a useful specialist contribution to the general housing programme of the Borough which in my view would not be the case with your proposal.

9. I have taken into account all other matters raised including your point regarding the number of objectors but nothing outweighs the considerations that have led to my decision.

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

I am Sir
Your obedient Servant


RICHARD A MORDEY BA MCD 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 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

AJP



DACORUM BOROUGH COUNCIL

To H S Cawdery
Norvis, Tring Hill
Tring
Herts

Two dwellings (Outline)
at Land at Fox Road, Fox Close, 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 Undated and received with sufficient particulars on 31.12.86 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 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.
 2. The adopted Dacorum District Plan shows the site to be within the Chilterns Area of Outstanding Natural Beauty wherein the policy of the local planning authority seeks to preserve the appearance of the area, encourage agriculture and conserve wildlife by the restriction of further development having particular regard to the siting, design and external appearance of buildings. The proposed development is unacceptable in the terms of this policy. /Cont'd... on attached sheet
- Dated 26 day of February 1987

Signed *W. B. B...*

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.

Reasons for Refusal /Continued.....

3. The proposal would involve the development of an area of open amenity space provided as an integral part of the layout of the existing residential development in Fox Close. The development of this land would, in the opinion of the local planning authority, adversely affect the open rural character of the area and the visual amenities of the residents of nearby properties.
4. The proposal is not supported by evidence of local need sufficient to satisfy Policies 4 and 5 of the adopted Dacorum District Plan.

Dated 26 day of February 1987

Signed 

Designation CHIEF PLANNING OFFICER