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Your reference  
3/LAB/LFA  
Our reference  
APP/C1950/A/86/043298  
Date  
15 SEP 1986

16 SEP 1986

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 37  
APPEALS BY THE RETIREMENT HOMES ASSOCIATION  
APPLICATION NO: 56/710/85

*Cyril K.  
File Home*

1. I am directed by the Secretary of State for the Environment to say that consideration has been given to the report of the Inspector, Mr R E Watson BA (Hons) who held a local inquiry into your clients' appeals under Section 37 of the Town and Country Planning Act 1971 against the failure of the Welwyn Hatfield District Council to give notice of their decision within the prescribed period of an application for planning permission for the change of use to an institution providing for the boarding, care and maintenance of old people, involving alterations to existing buildings, demolition of existing kennels and ancillary buildings, and the erection of 220 residential accommodation units, together with landscaping, footpaths and parking facilities, at Hook Kennels, Northaw, Hertfordshire. A copy of the Inspector's report is enclosed.

2. The Inspector said in his conclusions:

"Because of the age of the occupants of the proposed scheme, the range and type of the facilities to be provided, and, in particular, the level of continuous support and care to be given to residents, I acknowledge that the proposed use would incorporate functions of an institutional nature. I accept that the care of the elderly residents would be a vitally important component of the scheme. Nevertheless, the proposal is intended to accommodate elderly people in an entirely separate housing community. In effect, it would be a new residential settlement. The accommodation units, described by the appellants as cottages and apartments, would be self contained; residents would purchase a long lease on the properties, and would have the choice of living a life independent of the community and its facilities. Notwithstanding the view taken by the Councils in Kent and Surrey in respect of the appellants' existing developments, or the supporting legal opinion, in my judgement, the proposal would be residential development, albeit of a specialised form.

The appeal site has a long-standing development plan designation within a green belt area. In such areas both national policy and the development plan relevant to this locality set out a general presumption against residential development. Consequently, I am convinced that this proposal would be contrary to those policies. Hook Kennels lies within attractive countryside not far removed from the eastern edge of development at Potters Bar and located just to the north of the M25 motorway. I consider it essential that the green belt policies are rigorously applied in this area in order that neighbouring settlements are contained and the countryside safeguarded from further encroachment by inappropriate development. I take the view that the proposed development

would run counter to that objective, and would tend to undermine the consistent application of green belt policy in this locality.

Even if the view is taken that the proposal would fall within Class XIV of the Use Classes Order as an institutional use, it would still conflict with the Development Plan Green Belt policy relating to such uses in Hertfordshire. I agree that this policy is significantly more restrictive than the advice of the green belt circulars, or some of the relevant policies of other Structure Plans affecting the Metropolitan Green Belt. Nevertheless, the Structure Plan Alterations have been approved recently by the Secretary of State at a later date than the publication of Circular 14/84, and the District Plan, although not adopted, has moved through all the stages set out in paragraph 1.12 of Circular 22/84. I consider that considerable weight must be attached to the statutory plans, and that they should be overridden only in exceptional circumstances.

I do not consider that there are any such circumstances surrounding this proposal which should outweigh the green belt policy restrictions. Notwithstanding the inquiries received by the appellants expressing an interest in living in this area, or the survey results and studies which indicate that some of the potential residents may be likely to move a short distance, I am not convinced that the scheme would directly meet any specific housing need of this local area which could not be met in neighbouring settlements outside the green belt.

I accept that the appeal site has been in use for many years and that it contains a large complex of buildings, many of which are unattractive and unsuitable for accommodating other uses. I acknowledge that, if the site remains unused for a lengthy period, there would be a danger that it would become derelict. However, bearing in mind the advice of Circular 14/84, I do not find that these considerations provide a sound reason for accepting the proposed development in this green belt location.

I do not doubt that the proposed development would be designed to a high standard. I note the intention to extend the development over the same area occupied by the present buildings. I found the site to be well screened on 3 sides by mature landscaping. Nevertheless, in my judgement, the scale and mass of the proposed development would be greater than the existing complex. The erection of the number and range of the buildings proposed, the construction of estate roads, and the provision of garaging and parking areas, in my view, would introduce a major urban development feature into this rural location. I consider that this would have a considerable visual impact on the open views from Northaw Road West despite the distance involved, and would have an adverse effect on the character of this part of the designated Area of Great Landscape Value.

Should it be decided to grant planning permission, bearing in mind the intended design of the proposed scheme, the likely scale and arrangement of the individual dwellings, and in order to avoid any possibility of overdevelopment by extensions, I consider that, in this case, there would be an exceptional justification for the imposition of a condition which would remove development rights conferred under Class I of Schedule 1 of the Town and Country Planning General Development Order 1977.

Planning controls are concerned with the use of land rather than the identity of the user. Notwithstanding the characteristics of the proposed development, I am not convinced that a condition restricting occupancy of the new development to a particular class of occupier would be acceptable. However, bearing in mind the site's location close to the vulnerable inner edge of the green belt, in my view, if permitted the special circumstances of the development ought to be emphasised by its restriction to the specific use for which application has been made.

The application does not include access as a reserved matter. However, in my opinion, some visibility improvement would be required at the junction with Coopers Lane Road. The appellants control the land on both sides of that entrance. I consider that details of this access improvement must be reserved for approval at a later stage.

I accept that this is a highly imaginative development proposal which would be likely to prove attractive to retired and elderly people. However, I find that the proposal is open to cogent objection, and that the development would be contrary to the objectives of green belt policies. In my judgement, the proposed development would harm interests of acknowledged importance in this part of the Metropolitan Green Belt."

The Inspector recommended that the appeal be dismissed.

3. In deciding this appeal the Secretary of State considers that the main issues are the effects of the proposal on the Metropolitan Green Belt and on the Area of Great Landscape Value. In considering these matters he notes firstly that the policies in the Structure Plan (Policy 2) and the District Plan (Policy E1) relating to Green Belt land in this area preclude development unless it is required for the acceptable uses specified which include uses appropriate to a rural area and the use for institutional purposes of existing large residential buildings situated in extensive grounds, provided that the proposed use is not such as to lead to a demand for additional buildings in the grounds. In addition Policy 22A of the Structure Plan and E9 of the District Plan relate to the Area of Great Landscape Value where special attention must be given to the effect of the development on the surrounding landscape. Thus the siting, design and external appearance of any new buildings take on particular importance.

4. The Secretary of State has given careful consideration to all the arguments submitted for and against the proposed development and to the Inspector's conclusions. He agrees with all of his conclusions and in particular, whilst he accepts that the proposal has some characteristics of an institution in large grounds he is satisfied that it is in essence a new housing development catering for a particular type of resident and as such he considers that its location on this site in a vulnerable part of the Metropolitan Green Belt would seriously prejudice the restraint policies which apply. Furthermore, since the area is also one of Great Landscape Value, he agrees with the Inspector that the development proposed would damage its character.

5. The Secretary of State has taken into account all the other matters raised, including the Council's desire to find an alternative use for the site but they have not caused him to change his view that the planning objections to the proposed development are overriding and that it should not be allowed.

6. For the reasons given above the Secretary of State accepts the Inspector's recommendation and hereby dismisses your clients' appeal and refuses planning permission.

I am Gentlemen  
Your obedient Servant

J A BRIERLEY  
Authorised by the Secretary of State  
to sign in that behalf