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West Midlands WV13 2DD

Your Reference:  
TAL.MH.TS168  
Our Reference:  
T/APP/W0720/A/88/112394/P5  
Date: 14 NOV 89

Sir,

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
AS AMENDED BY HOUSING AND PLANNING ACT 1986  
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)  
APPEAL BY MCLEAN HOMES NORTH EAST LTD  
PLANNING APPLICATION NO :- S1664/88  
APPLICATION FOR COSTS BY STOCKTON-ON-TEES BOROUGH COUNCIL

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Committee 12/12/89*

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the failure of the Stockton-on-Tees Borough Council to decide, within the prescribed period of time, an outline application for planning permission for the residential development of approximately 7.2ha. of land at Knowles Farm, Kirklevington. I held a local inquiry into the appeal on 26, 27 and 28 September 1989. At the inquiry an application for costs was made by the Council against your clients and I deal with this separately below.

APPEAL

2. At the inquiry, after consideration of the question of the appropriateness of a condition limiting the development to executive housing, it was suggested on your clients' behalf, that the application be amended to relate specifically to 70 executive dwellings. The Council accepted this suggestion as it was as such that the application had been considered. I shall therefore deal with the appeal on this basis, treating the two layout plans produced as illustrative of how the development might proceed if the appeal were allowed.

3. The appeal site lies to the south-west of the village of Kirklevington, which lies to the west of the A67. The western part comprises the house and farmyard of Knowles Farm, which together with adjacent fields total some 2.7ha. The remaining approximately 4.5ha. is in three ownerships and is used as horse paddocks. To the north and east is existing housing served by St Martins Way, and Grove Bank, Knowles Close, and Westlands. To the west is a railway line on an embankment, and to the south is open countryside.

4. From my inspection of the site and its surroundings and from the evidence, and representations made at the inquiry and in writing, I consider that the main issues in this case are:

1. whether or not there exists a 5 year housing land supply in the Borough, or a shortage of land for executive housing.

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2. the likely impact of the development on the character and appearance of Kirklevington and the adjacent countryside.

3. whether or not the traffic generated by the proposal would be likely to prejudice road safety.

5. On the first issue, it was accepted that there exists more than a 5 year supply of house building land in the Borough, but argued on the appellants' behalf that there is insufficient land available within that supply for executive housing. It was argued that this shortage jeopardised the economic strategy of promoting economic growth of the area, which relied in part on attracting new employers to the area by offering attractive housing at the higher end of the market.

6. Whilst embodying a policy of compact urban growth in the area, the approved Structure Plan's housing policy seeks to provide a variety of sites for housing. The shortage of executive type housing was recognised in the approved Structure Plan in 1979, and has been the subject of study by consultants on behalf of the Housebuilders' Federation since then, and of discussion at the Examination in Public (EIP) into the submitted Cleveland Structure Plan in Spring 1989.

7. Only one suitable site was identified in a joint Housing Land Availability study in 1986, and it is thought that the position has worsened in recent years. The Council has begun a series of village studies which as well as defining village limits, identify sites suitable for new executive housing although there is a recognition of the problem of retaining them for this type of housing alone. Nor was the Council able to prove that the sites were available. They assess that there is a need for some 30 dwellings per annum in the villages based on a view that "executive housing" amounts to 10% of the supply of new houses, and assuming an equal division of supply into urban and rural sites. Based on the consultants' report, your clients' assessment is that some 155 dwellings per annum are required in the rural areas to satisfy demand. It was argued that the Council's assessment was artificially low because it was based on a supply which had been constrained in recent years and they had undertaken no survey of demand, whilst the Council argued that the consultants' findings were based on few responses which ranged very widely in their estimates of the need.

8. As there exists more than a 5 year supply of housebuilding land, I conclude that the added presumption in favour of the proposed development does not apply. However, as the Council acknowledge that there is a degree of shortage of housebuilding land for executive housing, I shall take into account the views expressed about the levels of need in considering the other issues which I have identified.

9. On the second issue, the Council consider that the proposal runs counter, in terms of its scale and location, to the objectives behind Policy W/A3 of the approved Structure Plan. This seeks to provide a variety of new housing development, and identifies the appropriate areas in Table W/A2. There, Kirklevington appears in the Levenside area, where development is to be concentrated, and an increase from 200 to 350 dwellings is envisaged in the village from 1971-1991. The present number of dwellings is 330. Although it was stated that local plans would determine the specific location and boundaries of sites for the development allocated for each settlement, no statutory local plan has been prepared for the area, and the informal Village Limits, as defined in the "Limits to Development Report 1975", and recently redefined, have been used for development control purposes. The appeal site lies outside the limits, where development is intended to be restricted to that associated with agriculture or other uses appropriate to a rural area in order to protect the countryside.

10. On your client's behalf, it was argued that a further 70 dwellings in the village would not be a significant addition in strategic terms; it would not jeopardise the established policy of compact urban growth within the area. In local terms, an addition of 70 dwellings to the 330 existing in the village would not be harmful; would easily be assimilated, as had been the 2 other estate developments; and would only exceed the level of 350 dwellings anticipated in Table W/A2 of the approved Structure Plan by 50 dwellings, or 14.3%. Nor would the proposal be harmful in locational terms because it represented a "rounding-off" of the village upon low-grade agricultural land, not generally visible from public view, and offering an opportunity to establish a substantial tree screen on its southern boundary, giving a firm edge to the village.

11. In terms of the submitted Structure Plan, it was argued that the proposal complied with the terms of Policy H6 which states that, where village limits have not been defined, residential development will only be permitted where it is acceptable in terms of its impact on the character and amenity of the village; agriculture; the countryside; the road network; public utilities, and education facilities.

12. I agree that little weight can be attached to the village limits as originally defined or as redefined by the Council in their recent study. Although the latter was the subject of participation, and the village studies are stated to be precursors of a Local Plan for the Borough, it has not reached a sufficient stage in the local plan process identified in Circular 22/84. I nevertheless consider that in terms of scale and location the proposal would represent a sizable addition to the village and a considerable extension of the built-up area southwards into the surrounding countryside, where there is no natural boundary or physical feature suggesting a stop to the village.

13. The agricultural quality of the site has been revealed to be poorer than initial consultations indicated. Only 4% of the total area is Grade 3a and as the site does not comprise the best and most versatile land there is no objection to the loss of the land to development from an agricultural production point of view. However, paragraph 5 of Circular 16/87 stresses that the implication is not that all land other than the best and most versatile is being freed for development. This, together with the fact that the countryside must be protected for its own sake, as stated in paragraph 3 of the same Circular, emphasises that there is no change in the scope of planning control as applied to the countryside and rural villages. In my view the development of 70 dwellings here would have a harmful urbanising effect upon the settlement on this edge in sharp contrast with the present transition from village and farmstead to open fields. In this respect I do not consider that the proposal would relate well in scale to the present settlement.

14. I accept that the site can be seen only from existing culs-de-sac and the railway line, but consider that its development would be harmful to the presently open countryside on this edge of the village. I do not regard the proposal as acceptable "rounding-off" because of the large-scale development involved in relation to the village, nor do I consider that the proposal to plant trees in quantity on the southern side of the development, to create a new edge to the village and therefore a line to fill up to, renders such a large development acceptable. Extending the line of existing development to encompass such a large area of countryside as this and screening the consequent large-scale development from view by planting, in my view, is a practice which exceeds "rounding-off" or the filling in of more naturally defined spaces within a village, and I consider that it would be harmful both to the village and local countryside and consider it unacceptable for this reason.

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15. I accept that the area is no more than pleasant countryside on the edge of the village, but I return to the point that it is worthy of protection for its own sake. Also I heard no evidence that valuable amenity land elsewhere is in need of protection from pressure which could be relieved by the development of this site.

16. Villagers referred to the fact that Kirklevington retains a village atmosphere and spirit, and are concerned that the proposed housing would be difficult to assimilate socially as well as physically. Although not a reason for refusal in itself, I think this may be so if 70 executive families were added in what, in my experience of this type of housing, would be an unusually large-scale development.

17. The third issue concerns the highways in the village. The Council and local residents are particularly concerned about the impact of traffic likely to be generated from a development of this type and scale upon Forest Lane, where there is an inadequate and intermittent footway on the southern side, and a narrow, albeit continuous, footway on the northern side. I noted on my site visit that, on several stretches, it is not possible for pedestrians to pass each other and remain on the northern footway. From my observation this is not simply because the adjacent hedges are not cut, in fact I noted that most were trimmed to the edge of the footway, but the width remained inadequate on several stretches. Residents living on the southern side of the lane have to cross the road to walk a continuous footway. In these circumstances I share the residents' apprehension that more traffic on the scale implied by the proposal, especially in a morning when commuter-traffic is likely to coincide with schoolchildren using the lane, would be likely to cause conflict between pedestrians and vehicles which would be likely to prejudice road safety. I accept that modern design standards cannot be applied to village streets, and that there has been no personal injury accident in the last three years attributable to the narrow footways. However, in my judgement, because of the inadequate footway provision, the further traffic which could be generated by 70 executive houses at its western end would be likely to prejudice road safety.

18. The Council and local residents are also concerned at the likely increase in the use of the Forest Lane/A67 junction, which they see as a dangerous junction as it is close to bends to the south of the village. The normal requirement for visibility at the junction would be 160m. at 9m. back from the stop line, or in difficult circumstances which are accepted in this case would be 160m at 4.5m back. Visibility at the junction is limited in a southerly direction to about 125m. at 4.5m back from the stop line on Forest Lane, and can be obstructed by cars parked in front of the Crown Hotel. There have been 8 accidents involving injury, including 2 fatalities, on this part of the A67 in the last three years, and all appear to have resulted from drivers losing control on the bends, rather than vehicles using the junction. However, local residents referred to the poor visibility on leaving Forest Lane and also to the worry about being hit whilst waiting to turn right into Forest Lane, by northbound vehicles taking the bend too fast. Pump Lane affords a safer exit from the village onto the A67, but is itself a very narrow rural road with a sharp bend.

19. It was argued on your clients' behalf, that the junction is capable of accommodating the increased traffic; that the possible development of 33 dwellings at "Roseville" within the village limits was acceptable to the

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highway authority, and that visibility from the junction southwards was not such that danger would be caused to roadusers. It was also stressed that as part of the hotel car park was highway land, sightlines could be kept free of obstruction, and also that a ghost island could be introduced at the junction.

20. Although in technical terms there is no problem of capacity at this junction, I consider that it has inherent dangers because of the substandard visibility. Whilst accepting that standards need not be applied rigidly in all circumstances, I share the concern that, on what is undoubtedly a dangerous bend, visibility should be sufficient to ensure safe egress from, and the design adequate to allow safe entry into, the minor road. From my inspection and observations of the speed of traffic on the A67 and movements into and out of Forest Lane, I am not satisfied that it is, or could be made, by the means you suggest, an adequately safe junction. I therefore consider that it would be wrong to encourage its increased use by permitting a large-scale development such as that proposed. Although your clients doubt the availability of the "Roseville" site, and the practicability of achieving a satisfactory access to it, I take the point made that the highway authority apparently accept the principle of development of some 33 more dwellings in the village. I consider nevertheless that the junction is below standard for the increased use implied by the present proposal.

21. In conclusion on this issue therefore I consider that the scale of development proposed would be likely to prejudice road safety both on Forest Lane and at its junction with the A67, and for this reason also I find the proposal unacceptable.

22. There was also concern about the impact of the proposed development on school capacity. I note that there is sufficient spare capacity in the village primary school, but that the local secondary school, Conyers, is already overcapacity, relying upon temporary classrooms and furthermore lacks an assembly hall and sufficient science-teaching accommodation. The Local Education Authority are concerned that the possible 18 pupils from the proposed development would aggravate the accommodation problems at Conyers. However, it was accepted that there was spare capacity at Eaglescliffe School which was accessible from Kirklington, although a longer journey. It was also acknowledged that adjustments could be made to admission zones to improve the balance of pupils at the two schools, albeit the Authority would be reluctant to take this course and depart from traditional patterns of education. In these circumstances, I do not consider that the problems of lack of capacity at Conyers School itself constitutes a compelling reason for refusing planning permission.

23. I return now to consider the extent to which the need for suitable "executive housing" sites outweighs the objections which I have concluded relate to the development of this site. I am mindful that the difference between the parties in terms of demand for such housing is considerable, and that it may only be resolved in overall and strategic terms by publication of the Secretary of State's proposed modifications to the submitted Structure Plan. However, whilst accepting that there is a degree of shortage of such sites, I do not consider that the need overrides the significant planning objections which I consider attach to the location and scale of this proposal.

24. I have also taken account of all the other matters raised, but they do not outweigh the considerations that have led me to my decision.

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

SIMPINGTON-ON-THEES BOROUGH COUNCIL

THE APPLICATION FOR COSTS

26. The Council claimed their costs in respect of the inquiry previously arranged for 4 July 1989 and cancelled on 30 June 1989 because of your clients' failure to comply with the normal procedural requirements of inquiries and to produce a pre-inquiry statement of their case as required by the Inquiries Procedure Rules. The Council referred to their letters to your clients dated 2, 15 and 29 June, in the last of which they pointed out that there were but one or two working days before the inquiry; that they had no real indication of the issues your clients proposed to raise, and that in these circumstances, they felt obliged to request a postponement of the inquiry.

27. In reply, it was accepted on your clients' behalf that there had been a failure to comply with the Inquiries Procedure Rules as far as the statement of case was concerned, due to a misunderstanding over responsibilities. It was also accepted that the local planning authority had therefore been inconvenienced. The Council could have come to the inquiry, but it was appreciated that there was a need to inform the public of a postponement.

CONCLUSIONS

28. In determining the Council's application for costs, I have borne in mind that, in planning appeals, the parties are normally expected to meet their own expenses irrespective of the outcome of the appeal and that costs are awarded only on the grounds of unreasonable behaviour. Accordingly, I have considered the application for costs in the light of Circular 2/87, the appeal papers, the evidence submitted by the parties and all the relevant circumstances in the appeal.

29. There is no doubt that your clients failed to comply with the statutory requirements which are necessary to allow the parties to prepare properly for an inquiry. I consider that the Council were justified in requesting a postponement in view of this problem. Accordingly I take the view that your clients' behaviour was unreasonable and gave rise to unnecessary expense on the Council's part, in connection with the previously arranged inquiry.

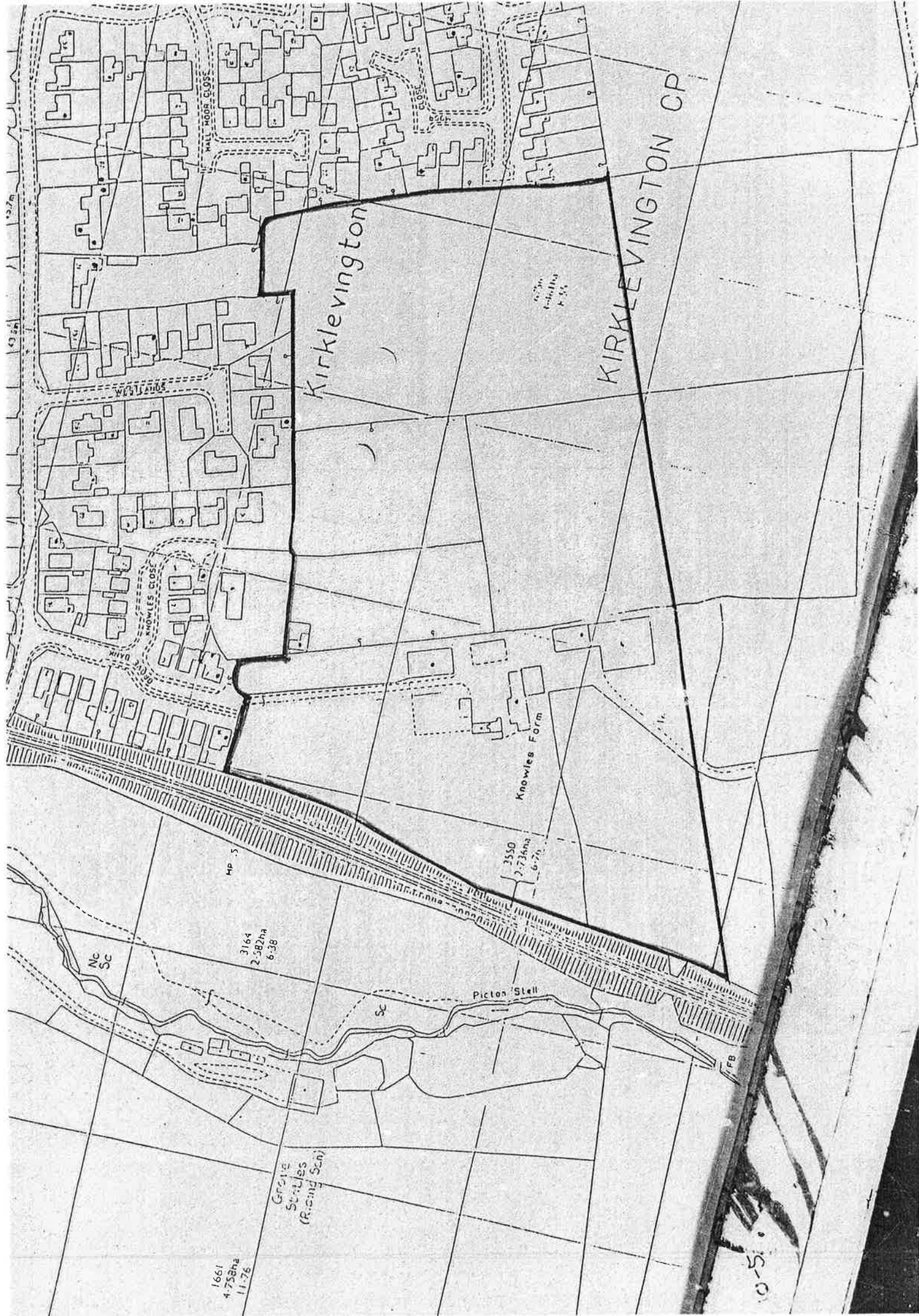
FORMAL DECISION ON COSTS

30. Accordingly, a copy of the Order as to costs, which I have made in exercise of my powers under Section 250(5) of the Local Government Act, 1972 and Section 36 of, and paragraph 5 of Schedule 9 to, the Town and Country Planning Act, 1971 as amended by the Housing and Planning Act, 1986, is included with this letter. A copy of the guidance note on taxation procedure, referred to in Circular 2/87 ( paragraph 28 ) is also enclosed.

I am Sir,  
Your obedient Servant

*M.D. Shaw*

M D SHAW MA(Oxon) MA MRTPI  
Inspector



Kirklevington

KIRKLEVINGTON CP

Knowles Farm

Picton St

Grove Schales (Rising Sch)

3164  
2.582ha  
6.38

3550  
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1661  
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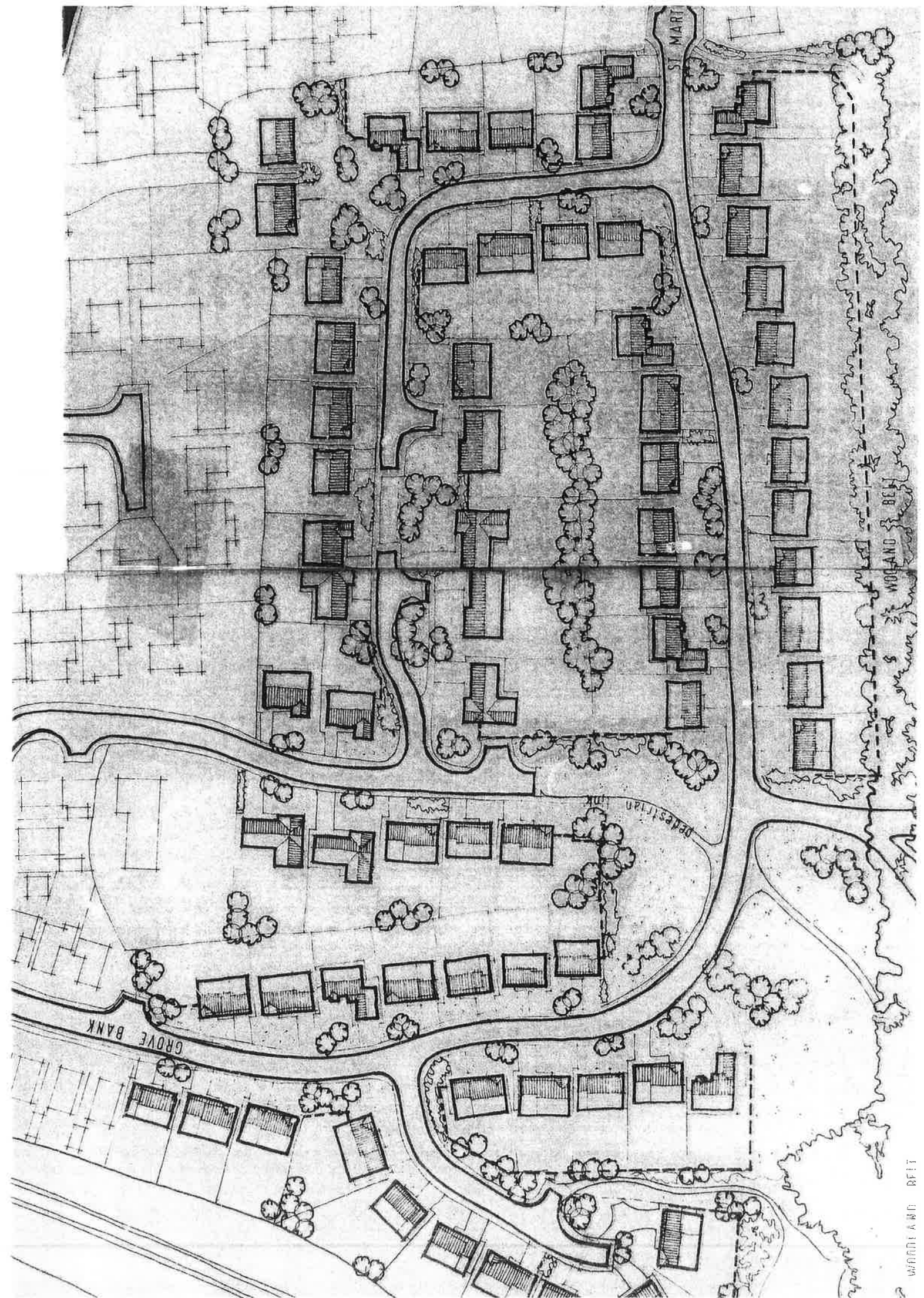
WEST 2405

KNOWLES CLOSE

HALL MOORE CLOSE

CLOSE

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3.55



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WOODLAND BELT

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