



Planning Inspectorate
Department of the Environment

D/665/JBL/P

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Mr M Palmer
1 Water End Road
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Hertfordshire

PLANNING	
D/665/JBL/P	
CPD/CP	15 NOV 1989
Received	
Comments	

Your reference

Our reference

T/APP/A1910/A/89/125769/P4

Date

14 NOV 89

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR M B PALMER AND MR L A CULCUTT
APPLICATION NO: 4/0271/89

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Dacorum Borough Council to refuse planning permission for the conversion of a dwelling to form 2 flats and the erection of a 2-storey side extension at 16 Cowper Road, Berkhamstead. I have considered the written representations made by you and by the Council and also those made by the Berkhamstead Town Council and interested persons. I have also considered those representations made directly to the Council which have been forwarded to me. I inspected the site on 17 October 1989.

2. The Council has stated that there is no objection either to the principle of the conversion or to the design of the proposed side extension. From the representations made and my inspection of the site and its surroundings, I consider therefore that the main issue to be decided in this case is whether that part of the scheme which would provide 2 parking spaces would adversely affect the amenities of the occupiers of 15 Cowper Road in terms of overshadowing and disturbance.

3. The appeal property stands at the corner of Charles Street and Cowper Road and is representative of the 2-storey, bay-fronted, Victorian terraced housing which makes up the essential character of the area. Its rear garden has a maximum width of some 4.8 m, narrowing slightly along its frontage of approximately 19 m onto Charles Street and, because of the fall of the land, it is set below the level of Charles Street but above that of the garden of No 15. The proposed parking area would be constructed about 2 m from the rear of the existing building and would be enclosed on 3 sides by a brick wall, but, as a result of the changing levels, it would be necessary for the height of the garden to be raised by between 0.5 m and 0.8 m in order to achieve a satisfactory access from the road.

4. Along the boundary with No 15, the enclosing wall would be some 1.5 m above the existing garden level of No 16 and I agree with your argument that it would therefore be permitted development because the Town and Country Planning General Development Order 1988, Schedule 1, Part 2, Class A provides that a means of enclosure upto 2 m above ground level may be erected in such locations without planning permission. However, in my opinion, the Council is also correct in contending that the construction of the parking area itself would be an engineering operation constituting development for which permission is required.

5. The Dacorum District Plan includes policies which have the general objective of ensuring that proposals are compatible with a residential environment and I would be

concerned about the effect of this element of your proposal on the environment at present enjoyed by the occupiers of No 15 Cowper Road.

6. I accept that the indicated position of the parking spaces has been made necessary in order to achieve the Council's standard length of 4.8 m, but they would occupy a section of the appeal property which adjoins the neighbouring garden close to the dwelling itself. In such a location, I consider that the occupiers of that dwelling are entitled to expect a reasonable freedom from disturbance compatible with a domestic rear garden, given also that the garden is only some 4 m wide. In my opinion, the intrusion of vehicle movements onto the common boundary with a particularly sensitive area of the adjoining property would have a harmful effect which the proposed boundary wall, while accentuating the confined nature of this part of the garden, would not sufficiently mitigate. Furthermore, I also consider that the degree of disturbance which would be suffered would be exacerbated by the opening up of the frontage of the appeal property to Charles Street and its consequent increased exposure to highway noise from which it is at present shielded to some extent.

7. I therefore consider that planning permission should be refused and, although I have taken into account all other matters raised in the representations they do not alter my views on the main planning issues.

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

I am Sir
Your obedient Servant



P ROSSON BA(Hons) Solicitor
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Messrs Calcutt and Palmer
1 Water End Road
Potten End
Herts

M Palmer
1 Water End Road
Potten End
Herts

..... Conversion of dwelling to form two flats
..... and two storey side extension
at 16 Cowper Road, Berkhamsted

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 8 February 1989 and received with sufficient particulars on 9 February 1989 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

The proposed vehicle parking area and associated boundary walls would, by reason of their height and position on higher ground in relation to the adjacent house and its garden, adversely affect the amenities of the occupiers of that house.

Dated 27 day of April 19 89

Signed.....

SEE NOTES OVERLEAF

P/D.15

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.