



Planning Inspectorate Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218 927

Switchboard 0272-218811

GTN 1374

JDN
2 JCS

Mr I G Smith
'Kues'
Shootersway
BERKHAMSTED
Hertfordshire
HP4 3NG

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL							Your reference
Ref.						Ack.	
C.P.O.	T.C.P.M.	D.P.	D.C.	B.C.	Admin.	File	Our reference
							T/ARP/A1910/A/89/141935/P4
Date						Date	
17 APR 1990						12 APR 90	
Received							
Comments							

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/0315/89

- I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Dacorum Borough Council to grant planning permission subject to conditions for the erection of a first floor addition and double garage at 'Kues', Shootersway, Berkhamsted. I have considered the written representations made by you and by the Council, together with those made by interested persons and I inspected the site on 13 March 1990.
- The condition in dispute is No 3 which provides that the first floor windows in the north-west and south-east elevations shall be of obscured glass and thereafter retained in this condition.
- The approved addition to your bungalow would have the effect of converting it into a 4-bedroomed, 2 storey house and from the representations made and my inspection, I consider that the main issue to be decided is whether deletion of the condition in question would result in unacceptable overlooking and loss of privacy for the occupiers of the adjoining dwellings.
- The submitted plans indicate that there would be 2 windows in the north-west elevation of the first floor which would each be some 1.8 m wide and would provide light to a landing and a second bedroom respectively. On the south-east elevation would be an 'L'-shaped window, also to a landing, a bathroom window and a rooflight to a fourth bedroom. The Council has conceded that it would not expect the rooflight to be in obscure glazing.
- The Council has also argued however, that it was influenced in its decision by the fact that it has no control over the internal layout of a property and the rooms need not be used for the purposes stated on the submitted plans. While I agree that this would be the case, I do consider that the design imposes certain limitations on any such potential flexibility.
- In my opinion, it would therefore be highly improbable that the narrow, landing window in the south-east elevation could serve any other function and its use for that purpose is unlikely to result in detrimental overlooking of the adjoining properties in Kings Road. I do consider it reasonable however that a bathroom window which faces towards other dwellings should be obscure glazed.
- As to the north-west elevation, I believe that a very strong argument would have to be advanced to justify requiring the obscure glazing of a window to a habitable room, such as that to the intended second bedroom. That window and the landing window would face towards the adjoining dwelling on Shootersway, known as 'Ballintrae', but do not overlook directly any windows of that property

while the bedroom window, in particular, would look out only across its front garden. I have noted that the occupiers of Ballintrae objected to the proposed addition generally, but I do not consider that the 2 windows in question would have an unacceptably adverse effect on their amenities.

8. I therefore conclude that the condition should be varied as I set out below and, although I have taken account of all other matters raised in the representations, they do not alter my views on the main planning issue.

9. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your appeal and vary the planning permission No 4/0315/89 for the erection of a first floor addition and double garage at 'Kues', Shootersway, Berkhamsted granted on 23 May 1989 by the Dacorum Borough Council by deleting condition No 3 and substituting therefor the following condition:-

3. the first floor bathroom window in the south-east elevation shall be of obscured glass and thereafter retained in this condition.

10. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Sir
Your obedient Servant



P ROSSON BA(Hons)
Inspector

Town Planning

Ref. No.4/0315/89.....

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF ...DACORUM.....
IN THE COUNTY OF HERTFORD

To Ian Smith
'Kues'
Shootersway
Berkhamsted

.....First Floor Addition and Double Garage.....
.....
at 'Kues', Shootersway, 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 permit the development proposed by you in your application dated8..February..1989..... and received with sufficient particulars on.....16..February..1989..... and shown on the plan(s) accompanying such application, subject to the following conditions:—

- (1) The development to which this permission relates shall be begun within a period of ...5... years commencing on the date of this notice.
- (2) No work shall be started on the development hereby permitted until details of materials to be used externally shall have been submitted to and approved by the local planning authority, and the development hereby permitted shall be carried out in the materials so approved.
- (3) The first floor windows in the north-west and south-east elevations shall be of obscured glass and thereafter retained in this condition.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:—

- (1) To comply with the requirements of Section 41 of the Town & Country Planning Act, 1971.
- (2) To ensure a satisfactory appearance.
- (3) In the interests of amenity.

Dated 23rd day of May 1989

Signed Chris Barnard
Designation Chief Planning Officer

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, Marsham Street, 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 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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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.