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14 NOV 1988

File no. *epc 14/11*
refer to *epc 14/11*
Clear by *epc 14/11*

Mr S York
22 Oakwood Road
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ST ALBANS
Hertfordshire
AL2 3PX

1 Dec
2/88
3/88

Your reference		Date		Ack.	
Our reference		Date		Ack.	
T/APP/A1910/A/88/095865/P4		9 NOV 88		B.C. Admin. File	

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MISS VIVYAN AND MR SWEET
APPLICATION NO:- 4/0365/88

Received 14 NOV 1988

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 erection of 2 one-bedroomed flats with garages below on land to the rear of 7A and 9A Deaconsfield Road, Hemel Hempstead. I have considered the written representations made by you and by the council and also those made by other interested persons. I inspected the site on 20 September 1988.
2. The appeal site lies in a residential area which was built in the 1930s. The properties in Deaconsfield Road are semi-detached with long rear gardens, and in Seaton Road, which runs parallel to it, there are terraced properties, mainly in groups of 4. Dowling Court runs from Woodman Road along the line of the original access to the rear of these houses. This road serves new houses and flats on its north-west side which have been built as a comprehensive scheme on parts of the rear gardens of the houses in Seaton Road. It also provides access to further dwellings which are currently being built on the former rear gardens of houses in Lawn Lane. This type of development, utilising the long rear gardens which are typical of this period of suburban development is a characteristic of the area. There are further examples at Johnson Court on the opposite side of Woodman Road and at Innes Court and Christopher Court off Seaton Road.
3. From my inspection of the site and the surrounding area and from the representations made I consider that there are 2 main issues in deciding this appeal. Firstly whether the amenities of the occupants of nearby dwellings would be reduced to an unacceptable level by way of loss of privacy and overlooking, and secondly whether the proposed development is piecemeal and would prejudice the satisfactory future development of adjoining sites.
4. The proposed kitchen windows of the flats are at first floor level and would look directly towards the rear of Nos 7A and 9A Deaconsfield Road. The distance between them is however sufficiently great to avoid the possibility of direct overlooking of these dwellings. Although kitchens of the size proposed are not, as you point out, normally regarded as habitable rooms they can give rise to overlooking. They may be used for considerable periods during the day and in my opinion when sinks and worktops are located directly beneath windows the degree of overlooking can be increased. The proposed rear gardens of the flats are only 4 m long and as a result the rear gardens of 7A and 9A will be very close and overlooked to an unacceptable degree in my opinion, as will the gardens of Nos 7 and 9.

5. The proposed living room and bedroom windows would face directly towards the old people's flats in Christopher Court which backs onto Dowling Court, and the nearest of these is about 17 m away. At this distance I consider that there would be a loss of privacy to the occupants of both the existing and proposed flats if the development were to be allowed. I therefore find that the proposal is in conflict with policies relating to the design and layout of residential development in the Dacorum District Plan, ie Policies 18 and 66, insofar as they refer to the need to have regard to considerations of privacy and amenity.

6. In the opinion of the council the rear gardens of the houses between Dowling Court and Deaconsfield Road have some potential for residential development provided the layout is considered comprehensively. The principle of making maximum use of urban land is well-established and there are already several examples of such development in the vicinity of the site. Comprehensive development would enable overlooking problems to be reduced by allowing more flexibility in the orientation of dwellings and would avoid the need for a multiplicity of accesses. I share the council's concern about piecemeal development and consider that your clients' proposal would, in isolation, prejudice such a comprehensive scheme. In my view the council has been consistent in its approach to controlling development in the area by refusing a proposal for a single dwelling to the rear of No. 19 Deaconsfield Road. The approval of a dwelling to the rear of No. 1 Deaconsfield Road does not, in my view, prejudice the comprehensive development of the area any more than the dwellings which are currently being constructed in the gardens of the properties in Lawn Lane. In both cases the sites are at the southern end of Dowling Court and do not intrude in an isolated fashion into the area which the council considers to have potential for comprehensive development.

7. I have considered your suggestion that not all the owners of properties in this part of Deaconsfield Road may be interested in selling their land and I accept that it may take many years for sufficient land to be assembled to enable development to take place. This is not however a justification for allowing an unsatisfactory form of piecemeal development in my view.

8. I have also taken into account all the other matters raised in the representations but none of them are sufficient to outweigh those factors that have led me to my decision.

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

I am Sir
Your obedient Servant

David Harrison

DAVID HARRISON BA DipTP MRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

JF



DACORUM BOROUGH COUNCIL

To Miss Vivyan & Mr Sweet
7a & 9a Deaconsfield Road
Hemel Hempstead
Herts

Mr S York
22 Oakwood Road
Bricket Wood
St Albans

Two single bedroom flats and garages
at 7a/9a Deaconsfield Road, Hemel Hempstead, Herts

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 ... 24 February 1988 ... and received with sufficient particulars on ... 26 February 1988 ... 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 proposed development would have a seriously detrimental effect on the amenities and privacy at present enjoyed by occupants of adjacent dwellings.
2. The proposal represents a piecemeal form of development prejudicial to future redevelopment of the adjacent sites.

Dated ... 14 ... day of ... April ... 1988

Signed

Wm Bama

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.