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CHIEF EXECUTIVE
OFFICER

29 OCT 1986

File No.
Refer to ... C.P.O. ... 29/10 ...
Cleared

Your reference

PRB/jjg/4089

Our reference PLANNING DEPARTMENT

T/APP/40910/R/88/251812/14

Date

Ref.								Ack.
								20 OCT 86
C.P.O.	D.P.	D.C.	B.C.	Admin.	File			

Received

30 OCT 1986

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR MICHAEL KIRK
APPLICATION NO:- 4/0374/86

- As you know I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the construction of a road and 5 town houses to the rear of existing bungalow at 28 Hillfield Road, Hemel Hempstead. I have considered the written representations made by you and the Council and also those made by interested persons. I inspected the site on 6 October 1986.
- From my inspection of the site and the surrounding area and consideration of the representations made it seems to me that the main issues are (i) whether the proposed development would be unacceptably out of character with its surroundings in terms of appearance, density, privacy and overlooking; and (ii) whether the loss of trees arising from the proposed development would seriously prejudice the visual amenities of the locality.
- The upper part of Hillfield Road is effectively a cul-de-sac, the character of which is established by large detached houses and bungalows of varying styles and a number of impressive trees. There are rather more trees on the road frontage in the vicinity of the appeal site than elsewhere and they make a particularly important contribution to the street scene because of the higher level at this point. There are 5 specified trees on site and a group of trees along the rear boundary which are the subject of the Dacorum Borough Council (28 Hillfield Road, Hemel Hempstead) Tree Preservation Order 1986 and 2 of the specified trees would inevitably be lost if this appeal were allowed and planning permission granted. They are those which stand on the line of the proposed access road and are shown as "T2", a Sycamore on the front boundary, and "T3", a Horse Chestnut between the existing dwelling and its neighbour at No 26. These 2 trees are high and rather magnificent specimens which, in my opinion, would cause unacceptable damage to the visual scene if they were lost. Even if there were no tree preservation order, I would have reached the conclusion that the loss of these trees could not be justified.
- The proposed town houses are also sited in part of the garden of your client's house where there are a group of smaller trees which, although not protected by a preservation order, are quite delightful in their contribution to the character of the area. The access road would turn behind the existing dwelling and at one point

be barely 7 m to the rear; a substantially less distance than the depth of the house itself. Beyond that road would be a staggered terrace of town houses creating a scene which, in my opinion, would be totally incongruous with the surroundings and amount to unneighbourly development of a high degree.

5. Development Control Policy Note No 2, published in 1969, refers in paragraph 7 to the useful contribution which backland development can make in large gardens if the conditions are right. "Tandem" development where houses lie directly behind each other are generally unsatisfactory because of disturbance from access and lack of privacy suffered by the house in front. It would not be sufficient to say that the present occupier has no objection; houses regularly change hands and I must have due regard for the amenities of future occupiers. I have had regard to the terms of paragraph 4 of Circular 15/84 which urges that full and effective use should be made of land within urban areas to ease the pressure on the rural countryside, but Circular 14/85 and the associated White Paper "Lifting the Burden" (Cmd 9571) emphasise the commitment to maintain and improve the quality of the environment. I am satisfied that the present proposals would be seriously damaging in all of the respects which I have mentioned.

6. I have taken into account all of the other matters raised in the written representations but they are not of sufficient weight to affect my decision. I have looked at each of the other developments in the vicinity which you mention in your representations. The most directly comparable is, perhaps, Hillfield Close to the rear of Nos 51 and 53 but that is a spacious development of individual houses. Walnut Grove is quite different in that it turns off at the lower end of Hillfield Road and forms a major development with its own character separated visually and accesswise from the locality of the appeal site. You suggest that a smaller number could be approved if 5 town houses is thought excessive but, in view of the reasons for my decision, this question does not arise. I do not exclude, however, the possibility of a comprehensive development to the rear of the houses on the southern side of Hillfield Road if a larger site were to become available which would facilitate a better accessway and layout.

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

I am Gentlemen
Your obedient Servant

B. A. Payton

B A PAYTON LLB LMRTPI Barrister
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Mr M Kirk
27 Whitefield Avenue
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Surrey

Fuller Hall & Foulsham
(Hemel Hempstead)
81a Marlowes
Hemel Hempstead
Herts

5 Dwellings (Outline)

at 28 Hillfield Road, Hemel Hempstead

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 18th March 1986 and received with sufficient particulars on 18th March 1986 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 proposal constitutes undesirable backland development and would result in overlooking of, and unsatisfactory levels of, privacy for occupants of existing houses.
- (2) The proposals would result in the felling of trees, to the detriment of the amenities of the area.

Dated 14th day of May 1986

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.