

D/43/11.1



Department of the Environment

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2 ~~R. H. H. H. H. H.~~
3 Team 1 n.d. 2
include on Clee report
for Feb 15th.

Messrs Murgatroyds
Solicitors
36 Holywell Hill
ST ALBANS
Hertfordshire

Your reference

Our reference

T/APP/5252/A/78/07034/G6
Date

31 JAN 1979

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR G A ROSEN
APPLICATION NO:- 4/0409/78

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for the erection of a detached house and garage on land adjoining 3 Ranelagh Road, Hemel Hempstead, and the erection of a garage within the curtilage of 3 Ranelagh Road. I held a local inquiry into the appeal on 13 December 1978.
2. From my inspection of the site and surroundings and from the representations made, I am of the opinion that the main issues in this case are whether the proposed development would be out of character with the existing adjoining properties and whether it would be detrimental to the visual and general amenities of the locality.
3. The appeal site, which occupies an area of about 7,236 sq ft, is situated within a residential neighbourhood about $1\frac{1}{2}$ miles east of Hemel Hempstead town centre, on the south-west side and at the south-eastern end of the cul-de-sac Ranelagh Road. It is adjoined on the north-west and south by the curtilages of semi-detached houses at 5 and 1 Ranelagh Road, respectively, and, on the south-west, by the curtilage of 365 St Albans Road. Ranelagh Road, which has a length of some 650 ft, a carriageway width of about 20 ft and 2 footpaths about 5 ft wide, ascends at a gradient of about 1 in 44 from its junction with Vauxhall Road on the north-west to a turning head immediately to the south-east of the appeal site.
4. It was stated on behalf of your client that the adjoining side elevation of the house at 5 Ranelagh Road is fenestrated by 5 windows, of which the 3 lower windows are screened from the appeal site by a detached garage. The adjoining side wall of the house at 3 Ranelagh Road is fenestrated by 4 small windows, 3 of which are glazed in frosted glass. The lower half of the kitchen window in the rear elevation is also glazed in frosted glass. The width of the appeal site is 30 ft at the building line and 20 ft at the rear. The overall depth of the site is 120 ft, which is similar to that of other curtilages in Ranelagh Road. With the exception of Nos 1, 2, 3 and 4, the houses in Ranelagh Road occupy plots with an average width of 30 ft.
5. Regarding the design standards referred to on page 89, paragraph 7(6) 5 of the Hertfordshire County Council's Policy Statement "Hertfordshire 1981", the south-western aspect of the house under appeal would provide the proposed living room with a minimum of one hour of effective sunlight for at least 10 months between

February and November, inclusive. Additionally, by fronting Ranelagh Road, the proposed house would satisfy the criterion regarding a view over a public approach. Furthermore, the outlook of the house would not be curtailed or enclosed by development in areas over which the occupants would have no control. Concerning privacy, the proposals would meet the required minimum distance of 120 ft between the backs of houses, or 90 ft where a permanent 6 ft fence or wall is erected along the rear boundary.

6. The gap between the side wall of the house at 5 Ranelagh Road and the proposed house would be about 19 ft, which is a reasonable distance between dwellings and in excess of the distances between other houses in Ranelagh Road. The proposed house had been designed to make the best use of the 30 ft width prevailing at the building line. Furthermore, the 2 storey extensions which have been or are being built up to the boundary of 9 and 16 Ranelagh Road would result in a far closer relationship of houses than would occur in the case of the proposed house and the houses at 3 and 5 Ranelagh Road.

7. The relationship between the proposed house and the house at 3 Ranelagh Road would be different by reason of the angle between the houses. The gap between the rear corners of the houses would be about $6\frac{1}{2}$ ft and this distance would increase to some 22 ft at the building line. The proposed garage within the curtilage of 3 Ranelagh Road, however, would resolve the junction between the 2 houses by providing a visual link at ground floor level. Although this garage could be erected as an extension to 3 Ranelagh Road under the permitted development provisions of the 1977 Town and Country Planning General Development Order, it had been included in the proposals as an integral part of the composition.

8. While the proposals would change the appearance of the street scene, the degree of change would be minimal. Furthermore, the effects of the proposals would be less than those extensions which had been constructed in Ranelagh Road, or for which permission had been granted, as follows:-

- No 8 : 2 storey extension
- No 9 : 2 storey extension to boundary
- No 16: 2 storey extension to boundary
- No 20: 2 storey extension to boundary
- No 25: Car port to boundary
- No 27: Single storey extension at rear

There is a considerable demand for small housing units in the Hemel Hempstead area. Having regard to the green belt policies which are operated in Hertfordshire, moreover, the best use should be made of land within towns so as to increase the housing stock.

9. The council stated that the appeal site is shown to be within an area allocated for primary residential purposes in both the approved development plan and the non-statutory review of the development plan known as "Hertfordshire 1981", which was approved in 1972. There are 3 basic house types fronting Ranelagh Road and these comprise the pitched roof semi-detached corner houses at Nos 1, 3, 2 and 4, pitched roof semi-detached gable fronted houses such as Nos 5 and 7 and hipped roof semi-detached houses similar to Nos 9 and 11. The general layout of the houses is one of spaciousness within a well defined pattern of development and an overall conformity of design.

10. The houses fronting Ranelagh Road are not particularly large by modern standards and about half are 2 bedroom units. It is not surprising, therefore

that there have been numerous applications for house extensions at both ground and first floor level; the majority of which have been carried out in a manner sympathetic to the appearance of the existing dwellings. Prior to the application under appeal, there had not been any formal application for additional dwellings in Ranelagh Road. In 1959, however, the owner of 1 Ranelagh Road was advised that permission would be unlikely to be given for the erection of a further dwelling at the side of his house.

11. The 4 corner houses and plots at 1, 2, 3 and 4 Ranelagh Road are an integral part of the layout of houses fronting Ranelagh Road and, by virtue of the alignment of dwellings, do not readily lend themselves to the kind of subdivision proposed. Whilst, in general terms, the proposed development is in keeping with the standards contained in "Hertfordshire 1981", it is suggested that, because of the 45° splay of the house at No 3, there would be a minimum of privacy for the occupants of both No 3 and the proposed house. The erection of a garage at No 3 is incidental to the main proposal and could be accomplished irrespective of any further development of the appeal site.

12. Their principal concern in this case is to prevent a development which would be out of character with other dwellings fronting Ranelagh Road, both in terms of architectural design and by reason of the unfortunate juxtaposition of the proposed dwelling with that already on the site. While any judgement in this matter is necessarily of a largely subjective nature, it is accepted that the appeal site can satisfactorily accommodate an additional residential unit. But, they say, the erection of the proposed detached house would seriously disrupt the general pattern of semi-detached development; at the same time introducing an undesirable spatial relationship between the proposed dwelling and the house at No 3.

13. It was stated by the interested persons that Ranelagh Road is comprised of pleasant pre-war houses which contribute to the appearance of the street scene in a balanced manner. It would be wrong to allow the proposed house for the reason that it would be detrimental to the essential charm and character of the surroundings. Furthermore, the proposed garage on the north-west side of the proposed house would spoil the open character of the adjoining rear gardens. It was understood that there had been recent cases of drain blockage along the backs of houses fronting Ranelagh Road, particularly at the lower end. Accordingly, it was felt that a connection of the proposed house to the existing drainage system could result in further congestion and, perhaps, overflowing.

14. I consider that, with curtilages of about 3,280 sq ft and 3,956 sq ft, respectively, the proposed house and the existing house at No 3 would receive adequate light, air and sunshine and that there would be sufficient open space within the proposed curtilages for the purpose of the casual exercise and sitting out of the occupants. Furthermore, having regard, firstly, to the existing fenestration of the side walls of the houses at 3 and 5 Ranelagh Road, secondly, to the absence of any windows in the side walls of the proposed house and, thirdly, to the distance between windows in the parallel rear walls of the proposed house and the nearest dwellings on the south-west, which is more than 300 ft, I am of the opinion that there would be no significant overlooking between dwellings.

15. I noticed during the site inspection that the rear wall of the house at 3 Ranelagh Road is fenestrated by 2 ground floor windows measuring about 4 ft by 3½ ft high and 4 ft by 4½ ft high together with 2 first floor windows measuring about 4 ft by 3½ ft high and 6 ft by 3½ ft high. While I accept that there would be some overlooking from these windows of the proposed rear amenity space, I do not consider that the outlook of persons on the premises of No 3 would be significantly curtailed or that the degree of overlooking would be significantly greater than that which now exists across the rear garden of No 3 from the rear windows of the adjoining semi-detached house at No 1.

16. I have looked carefully at the arguments of the council and of the interested persons that the proposed house would seriously disrupt the general pattern of development and that there would be an undesirable spatial relationship between the proposed house and the existing house at No 3. I noticed during the site inspection, however, that several houses fronting Ranelagh Road had been or were being extended in a sideways direction and that the house at No 16 had been extended to the common boundary with No 18. In my opinion, these extensions have upset the original similarity of building forms and the similarity of spaces between buildings to a quite significant degree.

17. It seems to me that the proposals would not be detrimental to the general pattern of development for the reasons, that first, an 8 ft gap would be maintained between the proposed house and the boundary of No 5 at the building line, secondly, the proposed garage within the curtilage of No 3 would represent a satisfactory visual link between the proposed house and the corner house at No 3, thirdly, the roof of the proposed house would harmonise to a reasonable degree with the pitched roof forms of houses fronting Ranelagh Road and, fourthly, having regard to the backdrop of the corner houses at Nos 1 and 3, the proposed garage alongside the boundary of No 5 would have little, if any, intrusive effect.

18. I have considered all the other matters raised in the representations, including those references to drainage problems made by the interested persons, which were not supported by any factual evidence at the inquiry, but they do not outweigh those considerations which have led me to my decision.

19. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of a detached house and garage on land adjoining 3 Ranelagh Road, Hemel Hempstead, and the erection of a garage within the curtilage of 3 Ranelagh Road, in accordance with the terms of the application (No 4/0409/78) dated 4 April 1978 and the plans submitted therewith, subject to the condition that the development hereby permitted shall be begun not later than 5 years from the date of this letter.

20. 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 Gentlemen
Your obedient Servant

M Hyslop

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Inspector

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- " 2 - Copy of circular letter.
- " 3 - Notification of submissions by Dacorum District Council.
- " 4 - Copy of planning decision under appeal (No 4/0409/78 dated 17 May 1978).
- " 5 - Copy letter dated 12 December 1978 from Mr D Andrews to Technical Services Department.
- " 6 - Copy letter dated 11 December 1978 from Mr D Andrews to Director of Technical Services, enclosing copy signatures of 35 local residents.
- " 7 - Acknowledgement dated 25 October 1978, signed by B J Burton and J Burton.
- " 8 - Appeal decision T/APP/5254/A/77/9803/G6 dated 21 April 1978.
- " 9 - Extracts from "Hertfordshire 1981" (preface and pp 87, 88 and 89).
- " 10 - Extract from Written Statement of approved Hemel Hempstead Development Plan showing list of areas allocated for residential use, including R24 which includes appeal site.
- " 11 - Extract from "Ministerial Planning Decisions" pp 499 and 500, with plan.
- " 12 - Copy of page 776 of Estates Gazette dated 2 December 1978, showing summary of appeal decision T/APP/5252/A/78/03036/G9.
- " 13 - Extract from Essex Design Guide (pp 31 and 33).
- " 14 - Copy of Development Control Policy Note 1.
- " 15 - Copy of Development Control Policy Note 2.
- " 16 - Copy of Development Control Policy Note 10.
- " 17 - Copy of Circular 24/75.
- " 18 - Copy of CMD 5280.
- " 19 - Bundle of 8 planning decisions relating to house extensions at 8, 16, 9, 30, 32, 5, 20 and 31 Ranelagh Road (4/0660/75, 4/1198/76, 4/0163/77, 4/0187/78, 4/0080/78, 4/0577/78, 4/1126/78 and 4/1395/78).

PLANS

- Plan A - Application plan.
- " B - 1/200 sketch elevation to Ranelagh Road in correction of 1:200 street elevation on application plan.

PLANS (CONT'D)

Plan C - 1/1,250 location plan and 1/500 site plan.

" D - 1/1,250 location plan covering neighbourhood of appeal site.

" E - Extract from approved Hemel Hempstead Development Plan.

PHOTOGRAPH

Photo 1 - Montage showing Nos 3, 5, 7 and 9 Ranelagh Road.

" 2 - General View along Ranelagh Road looking towards Vauxhall Road

" 3 - View of 8 Ranelagh Road

" 4 - View of 9 Ranelagh Road

" 5 - Direct view of house extension at 16 Ranelagh Road

" 6 - Oblique view of house extension at 16 Ranelagh Road

" 7 - View of 20 Ranelagh Road

Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

RIGHT TO CHALLENGE THE DECISION

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given.

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is, the Inspector has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act; they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

RIGHT TO INSPECT DOCUMENTS

Under the provisions of rule 16(2) of the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State in writing within 6 weeks of the notification to him of the decision, for an opportunity of inspecting any documents, photographs and plans listed in the notification. Any application under this provision should be sent to the address from which the decision was issued, quoting the Department's reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days' notice should be given, if possible.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF Dacorum
IN THE COUNTY OF HERTFORD

To G. A. Rosen,
38 New End Square,
London NW3

Agent: Cannon, Morgan & Rheinberg,
38 Holywell Hill,
St. Albans

..... Detached house and garages
.....
at ... Land adj: ... 3 Ranelagh 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 4th April, 1978 and received with sufficient particulars on 5th April, 1978 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 development would be out of character with existing adjoining properties and detrimental to visual and general amenities of the locality.

Dated 17th day of May 19 .. 78 .

Signed.....


Designation ..Director of Technical Services

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, Whitehall, 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 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 District 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.
- (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.