

Department of the Environment and Department of Transport

Common Services

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14881

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EXECUTIVE OFFICER			
30 DEC 1985			
File Ref.	COUNCIL		
Ref. to	Jack	30/12	
Classified	Admin	File	

Mr A King BA(Hons) BPl MRTPI
Wetherby House
The Hemmings
Shootersway
BERKHAMSTED
Herts

Received reference	30 DEC 1985
Comments	
Reference	T/APP/A1910/A/85/036899/P4
Date	23 DEC 85

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR C JAMES
APPLICATION NO:- 4/0415/85

*Confirmed with DOE
30/12/85 GKS*

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of Dacorum Borough Council to refuse planning permission for change of use of amenity land to residential garden adjacent to 44 Northend, Hemel Hempstead. I have considered the written representations made by you and by the council. I inspected the site on 15 November 1985.

2. Having read the representations and viewed the site and the estate in which it is situated, I consider that the main issue in this appeal is whether the proposed enlargement of a domestic garden at the expense of public amenity ground would unacceptably harm the character of the locality.

3. The estate for which Northend is the loop access road is a mixture of 3-storey blocks of flats and 2-storey houses in short terraces. The large areas of grass with trees and some shrubs surrounding the blocks of flats are in my view essential to the setting of these buildings, which have no private gardens. Smaller patches of public amenity space, such as that affected by the appeal proposal, do not seem to me to be so important in the settings of the houses with gardens. This is partly because many of these gardens provide more interest for the passer-by in their more varied planting than do the public spaces which mostly offer little more than grass; and partly because the public areas, though not lacking normal maintenance, seem more liable to collect litter than are the private gardens.

4. I agree with you that the back garden of 44 Northend is so small as to be of little benefit to the occupants; whereas the open space onto which it is proposed to extend the garden is in my judgement disproportionately large in relation to the neighbouring small houses and gardens. It is uniformly of grass without any planting of trees or bushes, and thus not only lacks visual interest but exposes the featureless gable and garden walls of 44 Northend to view from the north. It has no apparent function other than the visual one of providing space between buildings, which could, in my opinion, be carried out equally well by a private garden. I find the proposed garden extension over less than a quarter of the open space modest, and consider that if it were bounded by a robust dark stained fence and furnished with shrubs and small-growing trees appropriate to the soil and the restricted space, it would contribute more to the appearance and character of the estate than the ground does in its present condition. Since any future applications for extensions of end-of-terrace gardens onto amenity spaces in the estate could be assessed according to the individual circumstances of their sites, I do not regard permission for the present proposal as setting a precedent which threatens the estate's character.

5. I have taken account of all other matters raised in representations, including the petition to the Council from 10 residents living nearby, but they do not affect my conclusions on the planning considerations which have led to my decision.

6. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for change of use of amenity land to residential garden adjacent to 44 Northend, Hemel Hempstead, in accordance with the terms of the application (No 4/0415/85) dated 10 April 1985, and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun not later than 5 years from the date of this letter;

2. before development is commenced details of a boundary fence and of a planting scheme within the garden extension shall be submitted to and approved by the local planning authority.

7. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

8. 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 Council Planning Act 1971; nor does it give any right of entry to land, not owned by the appellant, in order to implement the permission.

I am Sir

Your obedient Servant

W M H Patterson

W M H PATTERSON MA(Cantab) DipTP FRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To

Mr. Colin James
44 Northend
Hemel Hempstead
Herts.

Change of use of amenity land to residential
garden

at 44 Northend, 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 10th April 1985 and received with sufficient particulars on 10th April 1985 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 enclosure of this land and its use as residential garden would reduce the existing area of amenity green and have an adverse effect on the open character of the area.

Dated 16th day of May 19 85...

Signed



Chief Planning Officer

SEE NOTES OVERLEAF

P/D. 15

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.