

DACORUM BOROUGH COUNCIL

To Mr F Walker
9 Robinsfield
Hemel Hempstead
Herts

Mr T Hanrahan
18 Ashtree Way
Hemel Hempstead
Herts

..... Change of use of amenity green to residential
..... garden and erection of 2.0 m high wall
at Land adjacent 9 Robinsfield 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 24.4.85 and received with sufficient particulars on 29.4.85 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 and use as garden land would reduce the existing area of amenity green and have an adverse effect on the environmental character of the area.

Dated 18th day of July 19 85...

Signed *W. B. ...*

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.



Department of the Environment and
Department of Transport

Common Services

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CHIEF EXECUTIVE OFFICER	
2 JUL 1986	
File No.
Ref. No.	CEP/17
Dist. No.

A F Barker & Co
Solicitors
Wessex Court
Midland Road
HEMEL HEMPSTEAD
Herts HP2 5BH

~~1. APP~~
~~2. JCB~~
~~3. JOHNSON~~
~~4. TEAM 1~~

Your reference
AFB/BJC/W.130

Our reference
T/APP/A1910/A/86/42938/R2

Date
27 JUN 86

DENT COUNCIL	
Ack.	
Admin.	File

Receiver	
Comments	

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR F T WALKER
APPLICATION NO:- 4/0490/85

1. 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 change of use of amenity green to residential garden and erection of 2 m high wall on land adjacent to 9 Robinsfield, Hemel Hempstead. I have considered the written representations made by you and by the council and also those made by interested persons. I inspected the site on 6 May 1986.

2. From my inspection of the land and its surroundings and consideration of the representations made I am of the opinion that the main issue is whether the proposal, if permitted, would harm the environmental character of the area to an unacceptable degree.

3. I note that on behalf of your client you raised questions about the council's decision having taken account of the use for which the wall is intended and about the circumstances in which specific planning permission might or might not be required. The council have responded to these matters in their written representations and I see no reason to question their approach on the basis that planning permission is required for operational development and a material change of use. In the circumstances I think it appropriate for me to determine the appeal on the planning merits of the case but in doing so I wish to make it clear that I am not concerned with the question of ownership and whether the appellants has any rights to enclose the land.

4. The boundary wall proposed is intended to enclose an irregular shaped area of land said to be about 7 m deep at its greatest and about 20 m in length situated between the northern side boundary of the existing house and the back edge of the public footway. The land is grassed, unfenced and contains 2 substantial trees, a lime and a pine. You stated that your client owns the land outside the present boundary wall and now wishes to bring it within his back garden. You did not accept that the use of the land as part of the enclosed garden area would reduce the area of amenity green and harm the environmental character of the locality. You regarded as an exaggeration the council's claim that the replacement wall of identical materials and moved only slightly from the present position would appear harsh, incongruous and damaging to the environment.

5. The council pointed out that the appeal site is within a residential area high in its design and quality of appearance. The existing boundary wall is set

back some 7 m from the footway for much of its length. The original estate layout indicated a wall some 3 m from the footway which they would have accepted but they considered that the erection of a 2 m wall only 0.45 m from the footway and the use of the land as part of the enclosed garden area would introduce an incongruous and intrusive feature in the residential area whose dominant characteristic is one of trees and open space.

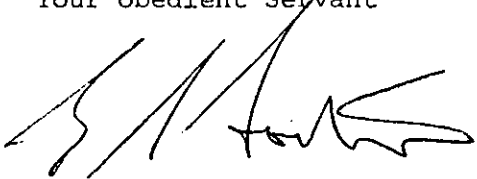
6. In my opinion the wall is not strictly an additional feature but rather one that would replace in matching material the wall that is already there and which did not strike me at my inspection as especially noticeable. While the replacement would be slightly higher and run close to the footway for a greater distance it would still be only some 20 m long. The footway is not only much longer but it would remain open as now on its northern side for the whole of its length including this comparatively short stretch and on both sides for the rest. Since there is a wide area of highway verge containing many trees to the north I am not persuaded that the realignment would be unduly over-bearing or restrictive of the wider view in comparison with the present situation when viewed by users of the footway. Nor do I accept that it would have any appreciable effect upon the outlook from nearby houses. Furthermore if account is taken, as I think it reasonably should be, of the fact that the council would not have refused consent to the wall being rebuilt some 3 m from the path on the line of the original layout the marginal gap between the then intended line and the one now proposed shows up even more clearly. The difference is only $2\frac{1}{2}$ m which I regard as of minimal consequence in relation to both the wide extent of the rest of the amenity green and the appearance and character of the general scene. The attractive features of that scene - an abundance of mature and semi-mature trees between and within the established gardens of well-spaced houses - are sufficiently dominant and extensive in my view to withstand without significant harm the minor change involved in realigning the present wall and enclosing a small strip of land. The lime and the pine, both tall trees, would admittedly be enclosed but I doubt that their contribution to the environment would be lessened much by that. My conclusion, having regard to all material considerations is that, the proposed development, to quote Circular 14/85, would not cause demonstrable harm to interests of acknowledged importance and therefore the general presumption in favour of allowing the application should prevail.

7. I have taken into account all other matters referred to in the representations but they do not outweigh the considerations that have led to my decision.

8. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use of amenity green to residential garden and erection of 2 m high wall at land adjacent to 9 Robinsfield, Hemel Hempstead in accordance with the terms of the application (No. 4/0490/85) dated 26 April 1985 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.

9. 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



E S FOSTER
Inspector