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C/860/MH/P

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PLANNING DEPARTMENT
DACORUM BOROUGH COUNCIL

Your reference

BB 3306

Ack.

C.P.O.	T.C.P.M.	D.P.	D.C.	B.C.	Admin.	Qing reference
						T/APP/A1910/A/90/149454/P8

153584/P8

Date

26 JUL 90

Received

27 JUL 1990

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEALS BY WRIGHT AND WRIGHT (TRING) LTD
APPLICATION NOS: i. 4/0612/89; ii. 4/1890/89

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeals which are against the decisions of the Dacorum Borough Council to refuse i. full planning permission for the change of use of part of existing car park to residential and ii. outline planning permission for the erection of one detached bungalow and garage on part of existing car park on land adjoining 11 Cobbetts Ride, Tring. I have considered the written representations made by you, the Council and interested persons, some made direct to the Council at the time the applications were being considered. I inspected the site, and the adjoining site at 104 Western Road in respect of 2 further appeals on that land on which I write separately, on 3 July 1990.

2. From my inspection of the site and surroundings, and consideration of the representations made, it seems to me the main issues to be determined are whether the projects would be a cramped form of development and their effect on the protected walnut tree on the appeal site.

3. Although of differing depths the frontages of the appeal sites in both appeals extend from the boundary shared with No 11 Cobbetts Ride to the warehouse forming the western boundary. The appeal sites are on the south side of a residential road and there is a mature walnut tree within the north-east portion of the site.

4. Rather than an objection to the principle of housing on the appeal sites it seems to me that the 3 Structure Plan and 5 Local Plan policies relevant in these appeals are concerned with obtaining developments which are in sympathy with their surroundings. Factors to be taken into account are such matters as site coverage, local fabric and character, car parking requirements etc.

5. Turning first to your client's appeal in respect of the change of use of part of the car park and the provision of 2 houses. The houses are described as 4 bedroom houses and the illustrative drawing shows the building extended over the whole frontage of the appeal site with the exception of a minimal gap to each side boundary with the adjoining development. By comparison with the more spacious layouts in Cobbetts Ride it seems to me the overall size and mass of the proposed buildings would have an overbearing effect, even taking into account the adjoining warehouse, and present a cramped appearance.

6. The proposed position of the building under the canopy of the walnut tree would mean that its root system as well as branches would have to be cut during the construction of the building. The tree has adjusted to its position and the damage to its root system as well as compaction of the ground by the vehicle access to either side of its trunk, would put its long term survival at serious risk in my view. With the building placed well under the canopy of the tree there could be pressure brought subsequently by an occupier of the dwelling most affected, for its removal in order to improve levels of daylight at the front of the dwelling. The tree, subject of a Preservation Order, makes a significant contribution to the street scene in Cobbetts Ride and a threat posed to its long term survival, in my view, would warrant withholding permission for your client's project.

7. Turning next to consider the proposed detached bungalow; as an outline application its overall size, the number of parking spaces etc did not feature in the Council's deliberations. The siting shown on the illustrative drawing, however, did not indicate a sufficient depth in front of the building to adequately accommodate a vehicle, which is required to meet the standard laid down. Nevertheless, in my opinion the appeal site could accommodate a detached bungalow, albeit of limited size, without appearing cramped in its surroundings. A limiting factor to the size of a building on the appeal site is the need to maintain a sufficient distance from the walnut tree to ensure that its long term survival is not put at risk by damage to its root system or, similarly, the building should not be of such a height as to require any branch to be removed.

8. The conditions which seems to me to be relevant to the proposed detached bungalow are those normally attached to an outline permission, but extended to protect the walnut tree and to the provision of a suitable screen on the boundary between the projected bungalow and the remaining part of the car park, to ensure privacy for future occupiers of the dwelling and minimise disturbance for them. In my opinion permitted development rights under the GDO should be curtailed to ensure the future of the walnut tree.

9. I have come to the conclusion that the proposed 2 houses would have a cramped appearance and would be likely to lead to the loss of the walnut tree and, therefore, this appeal of your client's should be rejected. In my opinion the proposed detached bungalow would be in character with the existing development in Cobbetts Ride and a suitable design could be achieved which did not threaten the long term survival of the walnut tree and, therefore, this appeal of your client's should succeed.

10. I have taken into account all the matters raised in the representations, including the alterations projected on the adjoining site of 104 Western Road, but do not find them of such strength as to affect my decision.

11. For the above reasons and in exercise of the powers transferred to me I hereby dismiss the appeal in respect of 2 dwellings and allow the appeal and grant outline planning permission in respect of the detached bungalow on land adjacent to 11 Cobbetts Ride, Tring in accordance with the application dated 14 November 1989 (Reference No 4/1890/89) subject to the following conditions:-

i. approval of the details of siting, design and external appearance of the building the means of access thereto and the landscaping of the site (hereinafter called the 'reserved matters') shall be obtained from the local planning authority;

ii. application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this letter;

iii. the development hereby permitted shall be begun on or before whichever is the later of the following dates:-

a. 5 years from the date of this letter; or

b. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved;

iv. a chestnut pale fence to protect the walnut tree shall be provided and maintained in a position to be agreed with the Council during the length of the contract for the construction of the bungalow;

v. a screen of a size and construction to be agreed in writing with the Council shall be provided along the boundary to the adjacent car park before the completion of the contract for the construction of the bungalow;

vi. notwithstanding the provisions of the Town and Country Planning General Development Order 1988 or any subsequent or re-enactments of that Order no development within the curtilage of the bungalow or minor operations (Parts 1 and 2 of Schedule 2 respectively) shall be carried out without the prior express permission in writing of the council.

12. Attention is drawn to the fact that an applicant for approval of the reserved matters 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.

13. 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



T R W ROBERTS RIBA DipTP MRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

Wright and Wright (Tring) Ltd
110 Western Road
Tring
To Herts

Brian Branwhite
Surveyors
Barclays Bank Chambers
65 High Street
Tring
Herts

.... Two semi-detached dwellings -
.....
at .. Land adjacent 11. Cobbetts Ride, Tring, 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 28.3.89 and received with sufficient particulars on 4.4.89 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 is excessive on a site which is inadequate satisfactorily to accommodate the proposal together with the necessary amenities and would result in a cramped form of development out of character with its surroundings.
2. The proposed development would result in the loss of the Walnut Tree on the site which is protected by a Tree Preservation Order which would be to the detriment of the amenity of the area.

Dated ... Seventeenth day of ... August 19 89

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.