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29 MAR 1989

File ref.

Refer to ... *29/3* ...

Cleared

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL

23875

Mr D Lane MRTPI
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Ref.					Ack.	
C.P.O.	T.C.P.M.	D.P.	D.C.	B.C.	Admin.	File
Received					29 MAR 1989	
Comments						

Out reference
T/APP/A1910/A/88/103907/P5

Date

28 MAR 89

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR J WILLIAMS
APPLICATION NO: 4/0714/88

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal which is against the decision of the Dacorum Borough Council to refuse outline planning permission for a detached dwelling on land at the rear of 19 Deaconsfield Road, 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 March 1989.
2. Deaconsfield Road is within a residential area originally developed in the inter-war years. The dwellings have long back gardens stretching to Dowling Court, which provides them with rear access. Dowling Court also serves a modern development of flats and houses built as a comprehensive scheme in the rear gardens of properties in Seaton Road, which runs parallel to Deaconsfield Road to the north-west. There are other recent developments of garden land nearby, notably at Johnson Court a short distance north-east of the appeal site.
3. From the written representations and my inspection of the site and surrounding area it is my opinion that there are 2 main issues in this case. These are, firstly, whether the proposal would cause material harm to the amenity of neighbouring occupiers by reason of overlooking or loss of privacy; and, secondly, whether it would be a form of piecemeal development harmful to the appearance of the area and prejudicial to the satisfactory development of neighbouring sites.
4. The appeal site consists of the rear portion of the garden of 19 Deaconsfield Road, and would have an access onto Dowling Court. Although the application is in outline an illustrative scheme was submitted showing a possible form of development. From this it appears probable that a window to window distance of about 22 m could be achieved between the proposed house and the rear of the existing dwelling. This I consider adequate. On the other hand the rear garden of the new house would probably be only about 6 m deep. Overlooking of the gardens of 19 Deaconsfield Road and other neighbouring properties, from the downstairs windows could be prevented by substantial fencing, as you suggest. The problem of possible overlooking from upstairs windows would nevertheless remain. You consider this could be overcome, by for example, using Velux roof lights. In my judgement measures that deprived the occupants of the new dwelling of all direct view from their upstairs rear windows would detract unreasonably from the quality of their environment. If the more usual type of windows were employed I think it probable that there would be some degree of overlooking of parts of neighbouring gardens.

5. The windows at the front of the proposed house would face habitable rooms of the old persons flats opposite. It is suggested that the distances involved would be between 49 ft and 59 ft, (14.9 m to 17.9 m), which you judge acceptable for an urban site. You also say that in approving the flats in Dowling Court the Council clearly accepted the relationship of that development with the road. Your client's proposal, which would have a similar relationship, should also be considered acceptable. In my opinion, whatever the precise reasons for the siting of the flats, they are now in position and the effect of this proposal must be assessed in relation to them. I consider that elderly persons may spend considerable time indoors, and that in these circumstances the window to window distances that would be likely to result from a house on the appeal site would not be sufficient to prevent significant overlooking, or invasion of the privacy of both the flats and the new house. Bearing in mind also the possibility of overlooking of certain gardens from the rear of the house, I conclude that this proposal would cause material detriment to the amenity of neighbouring occupiers by reason of overlooking and loss of privacy, and that planning permission should therefore be refused.

6. Government policy is to encourage effective use of land in urban areas, and the adopted Dacorum District Plan indicates that planning permission will normally be granted for residential development on small sites in Hemel Hempstead, subject to various criteria. The Council accepts in principle that the rear gardens of houses in Deaconsfield Road may be capable of redevelopment. It is concerned nevertheless that if each garden were developed independently a very piecemeal form of development would result.

7. No evidence has been produced to show that a comprehensive scheme for the rear gardens of the Deaconsfield Road properties is likely in the near future. I accept that in that situation the possibility of a preferable scheme of development being hindered would not of itself justify refusing planning permission for a current proposal. In this instance, however, I consider there are additional factors to be taken into account.

8. Your opinion is that the proposal would improve the visual appearance of Dowling Court, which is presently dominated on its south-east side by garages and fences, presenting a blank and uninteresting view. In my judgement however the intrusion of an isolated house in the particular position proposed would appear quite incongruous in relation to the line of garages and rear gardens on that side of Dowling Court. In my view it would be an example of ill related, piecemeal development which of itself would be harmful to the appearance of the area. Furthermore I think it likely that, given that the principle of some redevelopment on these rear gardens is accepted, it might well set the pattern for similar applications for individual houses at various points along Dowling Court. Cumulatively these would in my view both give an appearance of unco-ordinated, poorly planned development, and also prejudice the possibility of a more satisfactory comprehensive scheme. Such a comprehensive scheme would be more likely in my judgement to avoid problems of overlooking or loss of privacy. I conclude therefore that this proposal would be a form of piecemeal development harmful to the appearance of the area and prejudicial to the satisfactory development of neighbouring sites. This is an additional reason for refusing permission.

9. You refer to the permission granted in respect of land at the rear of 1 Deaconsfield Road. That site however at the end of the road is in such a position that it would not interfere with the development of other sites. Development to the rear of 7A and 9A Deaconsfield Road was refused by the Council, and a subsequent appeal was dismissed. I have considered all the other matters raised in the representations, but they are not sufficient to outweigh the reasons which have led to my decision.

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

I am Sir
Your obedient Servant

R. L. Muers

R L MUERS BA DipSocAdmin DipSocWork Solicitor
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mr J Williams
Mackvers Farm Cottage
Leverstock Green Road
Hemel Hempstead
Herts

..... Detached Dwelling (Outline)
.....
at Rear. of 19 Deaconsfield 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 18 April 1988 and received with sufficient particulars on 20 April 1988 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 represents a piecemeal form of development prejudicial to future redevelopment of the adjacent sites.
2. The proposed development would have a seriously detrimental effect on the amenities and privacy at present enjoyed by occupants of adjacent dwellings.

Dated 10th day of June 19 88

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.