

77308

CHIEF EXECUTIVE
OFFICER

1 AUG 1986

Fila Ref.
Refer to *C.F.O. 118*
ClearedDepartment of the Environment and
Department of Transport

Common Services

Room 14/17 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 927
Switchboard 0272-218811Dickins Batty & Bidder
Solicitors
230 High Street
POTTERS BAR
Herts
EN6 5BS

DEPARTMENT DACORUM DISTRICT COUNCIL		
Ref.	Ack.	
C.P.O.	B.C.	Admin. File
Received 1-AUG-86		
Comments		

Your reference
CB:MH:COWPER
Our reference
T/APP/A1910/A/85/039545/P5
Date

31 JUL 86

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MATTHEW HOMES LTD
APPLICATION NO:- 4/0756/85

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 erection of 9 detached houses with garages, estate road and landscaping on land at 103 Cowper Road and to the rear of 99 to 107 Cowper Road, Hemel Hempstead, Herts. I held a local inquiry into the appeal on 8 April 1986.

2. From my inspection of the site and surrounding area and from consideration of the submissions made I judge that there are 2 main issues in this case. The first is the effect of the proposed development on the amenity of neighbours arising from development of the site, overlooking and consequent loss of privacy. The second is the effect on the safety and convenience of users of Cowper Road, especially those calling at the nearby school, arising from the extra traffic generated by the 9 proposed houses.

3. In reaching my decision I must take account of national and local planning policies in addition to the other material considerations. National policies are contained in various Development Control Policy Notes, White Papers and Department of the Environment Circulars. At the inquiry my attention was drawn to Circulars 22/80, 15/84 and 14/85 together with Development Control Policy Note 2 and the White Paper, Lifting the Burden, (Cmd 9571). The principal document referred to for local policies was the Dacorum District Plan, adopted by the Council on 25 January 1984.

4. The people most likely to be directly affected by your clients' proposal are those living in Cowper Road and Woodland Close whose houses back onto the site. People living in 7-11 Gravel Hill Terrace would be affected but to a lesser extent because their properties are about 45 m from the northern boundary of the site along which is a hedge some 1.5-2 m high. Because the houses in the Poplars estate do not directly overlook the appeal site I do not consider that the development will have a detrimental effect on the amenities of their occupants. The houses in Woodland Close are bordered to the west by a hedge of shrubs and trees which is generally about 4 m high. This hedge hides the site to some extent but since it is mainly deciduous and has several gaps it would require additional shrubs, preferably evergreen, to create an effective screen. The distance between the rear windows of the proposed houses and those in Woodland Close would be about 25 m with

the exception of No 12. This dwelling has had an extension built at the rear to enlarge the living room and kitchen. Consequently the living room window of the house on Plot 5 would be about 20 m from No 12 and the flank wall of the house on Plot 6 would only be some 18 m from the latter property. The flank wall however, has no windows so there would be no overlooking in that respect but it is necessary to ensure that suitable materials are used on the outside of the proposed houses. The distance between the existing houses in Cowper Road and the new properties would vary between 15 m and 27 m, again the shorter measurement is to a flank wall without windows. The provision of a screen fence or hedge between these 2 sets of properties would be necessary.

5. Several people expressed the view that 9 houses would amount to overdevelopment of the appeal site to the detriment of the surrounding area. All the proposed houses have amenity space for relaxation, recreation, clothes drying, etc in excess of 130 sq m and most have more than 140 sq m. These areas are similar to those of most of the Woodland Close properties and more than the majority of houses on the Poplars development. National policy on housing density is set out in paragraph 12 to Annex A of Circular 22/80 which states:- "The Government's general policy is to encourage more intensive development in appropriate locations in order to preserve the countryside and protect better quality agricultural land".

6. I consider the appeal site to be an appropriate location for residential development in the terms of Circular 22/80 and do not feel that the proposal would be out of character with neighbouring properties. I judge that amenity space of more than 130 sq m is satisfactory for the type of housing proposed. The layout of the small estate could result in some overlooking and loss of privacy for existing residents but I do not regard the degree of overlooking to be sufficient to warrant dismissing this appeal. A satisfactory situation could be achieved by a suitable landscaping scheme. The 4 houses on Cowper Road which have their gardens reduced by the development would all have more than 150 sq m of amenity space to their east. This, in my opinion, is more than adequate.

7. I come now to the issue of road safety. The carriageway of Cowper Road is about 6 m wide and there are footpaths of 1.5 m or more on both sides. On my site visit I saw that there were vehicles parked on both sides of the road at its southern end where the houses have no on-site parking. From the photographs put in by the Council and Mrs Barling it is clear that traffic congestion occurs when children are being taken to or collected from Boxmoor School to the south of the appeal site. I was told that there is also a nursery school associated with the main establishment. Ages of the children going to the school range from 3½ to 11 years and local residents are very concerned about their safety. I share their concern and have examined carefully the accident figures put in at the inquiry. Over the period April 1983 to July 1985 there were 5 personal injury accidents recorded on Cowper Road and one of these was a result of driver deliberately ramming another car. None of the accidents occurred at times when children were entering or leaving school, nor do they appear to be associated with the school in any way. Although all accidents are to be regretted and I realise that damage only accidents are not recorded, the figures suggest to me that Cowper Road is relatively safe at present. I must therefore assess the road safety implications of additional traffic generated by 9 more houses entering Cowper Road near the school.

8. The morning peak hour traffic flow on the road was not in dispute. It was accepted by both main parties that just over 100 vehicles use the road between 8 and 9 am in February. This figure suggests to me that the average daily flow would be between 1,000 and 1,500 vehicles and I consider the road to be lightly trafficked. Mr Rudd calculated the capacity of the road to be between 300 to 500 vehicles per hour on the basis of table 1-4 of Roads in Urban Areas. Mr Parkes, for the Council, considered that this figure applied to roads with sporadic parking

and that the capacity of Cowper Road is less. In my opinion 300 to 500 vehicles per hour represents the practical capacity of the road under existing conditions. I reach this conclusion because table 1-4 indicates that the flows are typical of existing roads where waiting vehicles and junctions with heavy cross traffic severely limit capacity. I therefore consider that Cowper Road has a fair amount of spare capacity.

9. Your clients estimated that the development would generate about 56 vehicle-trips per day and although the Council felt this to be on the low side they did not produce an alternative estimate. Mr Parkes agreed that even if the figure were significantly higher, it would not unduly affect traffic conditions on the road. In my view 56 trips per day is probably low but an increase of 50% would not be critical. Any increase in traffic may give rise to road safety problems but in view of the existing accident statistics I do not feel that the appeal should be dismissed on the grounds of road safety. The access road should be designed so that there is satisfactory visibility at the junction with Cowper Road.

10. There was some dispute as to whether Cowper Road was a Collector Road as defined in Residential Roads in Hertfordshire. This document seems to be a guide to the design of new residential estate roads and its application to existing roads is invariably somewhat subjective. The facts in this case are that the nearest road north of the proposed access is about 100 m distant. To the south Grosvenor Terrace is more than 130 m away. I consider that the accesses to the Poplars development are little more than domestic access drives.

11. In my opinion road safety is an interest of acknowledged importance but I consider that your clients' development would not cause demonstrable harm to that or any other interest. I am also of the opinion that the development accords with the requirements of the Dacorum District Plan and that attention has been paid to Matters A to L in Policy 66. There is a need for an effective landscaping scheme to reduce the impact of the development on neighbours and I intend to impose a condition to ensure that their interests are protected. It is also necessary to ensure that the roads, footways and lighting system are constructed to satisfactory standards.

12. I have taken account of all of the matters raised, including the felling of 2 trees and the effect of the access road traffic on the occupants of 101 and 105 Cowper Road, but they do not outweigh the considerations leading to my decision.

13. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of 9 detached houses with garages, estate road, etc on land at 103 Cowper Road and to the rear of 99-107 Cowper Road, Hemel Hempstead, Herts in accordance with the terms of the application (No 4/0756/85) dated 17 June 1985 and plans numbered 309/01 (September 1985), 309/02/03/04/05/06, 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. no development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping including full details of boundary development, which shall include indications of all existing trees and hedgerows on the land and details of any to be retained together with measures for their protection in the course of development;
3. all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons

following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;

4. no works shall be started on the development hereby permitted until details of materials to be used externally shall have been submitted to and approved by the local planning authority and the development hereby permitted shall be carried out in the materials as so approved;

5. the access road hereby permitted shall include the provision of sight lines 2.4 m by 35 m within which there shall be no obstruction more than 600 mm above carriageway level;

6. no works shall be started on the development hereby permitted until plans, sections or details of the construction and layout of roads, footways and lighting facilities, including details of carriageway surfacing, have been submitted to and approved by the local planning authority.

14. 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.

15. 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 J HORTON CEng MICE MCIT DipTE
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Matthew Homes Ltd
5th Floor
Sheridan House
17 St Ann's Road
Harrow

John D Kettlewell
1 Kings Road
Tyders Green
High Wycombe

.....Erection of 9 detached houses, estate road etc.....

at Land R/O 99/107 Cowper 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 17th June 1985 and received with sufficient particulars on 21st June 1985 amended 5th September 1985 and shown on the plan(s) accompanying such application..

The reasons for the Council's decision to refuse permission for the development are:-

- (1) Cowper Road, by reason of its position on a busy traffic route, and its limited capacity is incapable of accommodating satisfactorily the additional traffic generated by the development, without giving rise to increased traffic congestion.
- (2) The proposal represents an overdevelopment of the site, out of character with surrounding development.

Dated 5th day of .. September 19 85 ..

Signed.....

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.

TOWN & COUNTRY PLANNING ACT 1971



DACORUM BOROUGH COUNCIL

To:

Rodney Porter F R I C S
The Old Red Lion
33 Park Street
Thame
Oxfordshire OX9 3HR

Details of landscaping

9 houses rear of 99/107 Cowper Road,
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 gives approval to the details which were reserved for subsequent approval in planning permission no 4/0756/85

granted on 5 September 1985 at the above-mentioned
location in accordance with the details submitted by you, with your
application dated 5 August 1987

Dated Thirtieth day of September 19 87

Signed

Designation Chief Planning Officer

NOTE: This is not a separate planning permission, but must be read in conjunction with any conditions attached to the permission indicated above.

TOWN & COUNTRY PLANNING ACT 1971



DACORUM BOROUGH COUNCIL

To: R K E Porter FRICS
The Old Red Lion
33 Park Street
Thame
Oxfordshire

Submission of details of external materials:
Westbrick Guildhall facing bricks Anchor Viscount
(Brown Granular finish) Roof Tiles
Nine dwellings and garages
Land rear 99/107 Cowper 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 gives approval to the details which were reserved for subsequent approval in planning permission no 4/0756/85

granted on 31 July 1986 at the above-mentioned
location in accordance with the details submitted by you, with your
application dated 1 September 1987

Dated 29 day of September 19 87

Signed

Designation Chief Planning Officer

NOTE: This is not a separate planning permission, but must be read in conjunction with any conditions attached to the permission indicated above.

TOWN & COUNTRY PLANNING ACT 1971



DACORUM BOROUGH COUNCIL

To: R K E Porter
The Old Red Lion
33 Park Street
Thame

Submission of details of access arrangements

Land rear of 99/107 Cowper 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 gives approval to the details which were reserved for subsequent approval in planning permission no

4/0756/85

granted on ^{31 July 1986} at the above-mentioned
location in accordance with the details submitted by you, with your
application dated

29 July 1987

Dated

29

day of

September

1987

Signed

Designation Chief Planning Officer

NOTE: This is not a separate planning permission, but must be read in conjunction with any conditions attached to the permission indicated above.