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D.C.4

Town Planning

Ref. No. 4/0779/84

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mr N Comben
'Gillams'
Cross Oak Road
Berkhamsted

Ronald M Smith DipTP FRICS
14 Woodland Close
Boxmoor
Hemel Hempstead

Dwellinghouse OUTLINE

at Rear of "Gwillams", Cross Oak Road, Berkhamsted

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 23rd May 1984 and received with sufficient particulars on 25th May 1984 and shown on the plan(s) accompanying such application.

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

The erection of a dwelling as proposed would be an undesirable form of sporadic development taking no account of the layout of surrounding residential properties.

The proposed development would have a seriously detrimental effect on amenities and privacy at present enjoyed by occupants of adjacent dwellings.

Dated 30th day of July 19 84

Signed.....

Chief Planning Officer

P/D.15

SEE NOTES OVERLEAF

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) 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 section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is 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.
- (3) 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 District 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.
- (4) 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 section 169 of the Town and Country Planning Act 1971.



Department of the Environment and Department of Transport

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PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

21 MAR 1985

File Ref.

Refer to ... O.P.O. 21/3

Cleared

Ronald M Smith Esq
14 Woodland Close
Boxmoor
HEMEL HEMPSTEAD
Hertfordshire
HP1 1RQ

DIP. FRICS

D.P.

Ack. Your reference

Admin.

File Our reference

T/APP/A1910/A/84/23187/P4

Date

Received

21 MAR 1985

Comments

20 MAR 1985

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR NORMAN COMBEN
APPLICATION NO:- 4/0779/84

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 District Council to refuse planning permission for the erection of a private dwellinghouse at the rear of "Gillams", Cross Oak Road, Berkhamstead (outline application). 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 13 February 1985.

2. Your client's proposal is to construct a new dwelling within the curtilage of his existing house on part of the site which, because of differing levels, you describe as a distinct plot. I think that that is probably an overstatement but I accept that the existing plot is large and capable of taking another dwelling. The Council have accepted this but are concerned that sporadic backland development will prejudice a comprehensive approach to a wider area. This issue was considered in the course of an appeal against refusal of planning permission for a similar proposal in 1982 and I have considered the terms of the decision letter dated 2 September 1982 (T/APP/5252/A/82/4002/G3). On that occasion, the Inspector concluded that a house could be so positioned so as to allow for the reasonable rights of neighbouring owners and that, in principle, the proposed development was acceptable. He was concerned, however, that there was a real risk of the proliferation of unsatisfactory accesses if other plots along Cross Oak Road were developed in a similar manner and he supported the Council's wish to see a comprehensive approach to backland development with the aim of reducing the number of access points.

3. I agree with the previous Inspector that the Council's policy in this regard deserves support but there must come a time when any particular proposal has to be considered upon its own merits if it appears unlikely that a comprehensive scheme would emerge within the foreseeable future. The Council do not suggest that there have been any relevant proposals since the 1982 decision for the development of neighbouring properties.

4. Having inspected the site and the surroundings and on consideration of the representations made, I am of the opinion that the determining issue is whether or not development of the appeal site would be likely to prejudice a realistic comprehensive scheme for nearby backland.

5. I have formed the view that a dwelling on the appeal site would complete a group of properties comprising the new houses known as Nutbourne and The Neens to

the north of Gillams and Nos 11 and 13 and Edgehill in Kingsdale Road. It appears to me, therefore, that your client's proposals would not prejudice the comprehensive development of land further to the south-west and it is implicit in the Council's representations that they would not wish any such comprehensive development to have access to Cross Oak Road in the vicinity of Gillams.

6. Whilst I agree with the Council that the arrangements for a shared driveway close to Gillams itself and to the boundary of Chilterns must be detrimental to the amenities of those properties, I am of the opinion that the proposed access is by no means cramped and I do not think that this objection raises sufficient reason to refuse planning permission. Although the proposed driveway is close to the boundary of Chilterns, the house itself is upwards of 8 m distant and behind a substantial and high tree screen. It is noted that a Section 27 notice has been served upon the owner of Chilterns both in respect of the application for planning permission and the appeal but no representations have been made on his behalf. So far as Gillams is concerned, the access to the proposed dwelling is already in use as a driveway and the likely additional traffic will not be great.

7. I am, however, more concerned about the point of access onto the public highway. You have largely met the concern of the previous Inspector by making provision in the present proposals for improved sightlines and the Council no longer raise this as a formal reason for refusal. I agree with the Council that Cross Oak Road is comparatively narrow at this point and I consider that, for reasons of safety, it is essential that the sightline improvements indicated on the application plan be achieved. In part, this will necessitate works in front of Chilterns and you have shown the application site as extending thereto and given the appropriate notice. The application plan shows insufficient detail as to what works are proposed and I have therefore included means of access as a reserved matter. The local planning authority will require to be satisfied that the necessary arrangements can and will be made and they will, no doubt, deal with this by condition when considering the application for approval of details.

8. Although the position of the proposed new house is indicated on the application plan, no floor area is specified in Section 9 of the application form. I have taken into account the strenuous representations of the interested persons but I have reached the same conclusion as the previous Inspector referred to in paragraph 2 above that their reasonable rights can be allowed for in terms of size and positioning. These 2 factors are so inter-related that I am unable to make a judgement on the precise position without details of design and bulk. I have considered imposing a condition limiting the proposed dwelling to a single storey in order to preserve the character and visual amenities of the area but it is probably better to treat both siting and design as reserved matters which can be discussed with the local planning authority.

9. I have taken into account all the other matters which have been raised by the parties and the interested persons but they are not of sufficient weight to affect my decision.

10. 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 a private dwellinghouse at the rear of "Gillams", Cross Oak Road, Berkhamstead in accordance with the terms of the application (No 4/0779/84) dated 23 May 1984 and the plan submitted therewith, subject to the following conditions:

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

b. 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;

2. 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.

11. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission and for approval of the reserved matters referred to in 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.

12. 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 Sir

Your obedient Servant

B. A. Payton

B A PAYTON LLB LMRTPI Barrister
Inspector