

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To N Edwards Esq Prudential Property Services
 c/o Prudential Property Services 1/2 Burkes Parade
 1/2 Burkes Parade Beaconsfield
 Beaconsfield

..... Twelve Flats and Car Parking (Outline)

.....

at Ethylwin, Buncefield Lane,

..... 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 refuse the development proposed by you in your application dated 14.4.88 and received with sufficient particulars on 6.5.88 and shown on the plan(s) accompanying such application.

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

Having regard to the requirement of the Health and Safety Executive that no part of the building should be closer than 60 m to the edge of the nearest tank bund at the adjacent oil terminal, the proposed development of 12 flats is excessive on the remainder of the site outside this 60 m limit, insofar as the building either could not be accommodated on the site or would be poorly sited in relation to the site boundaries and the remainder of the site and, in this position, could prejudice the longer term future of the adjoining land.

Dated ... FOURTEENTH day of JULY 19 88

Signed..... *Wm Bama*

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.

Planning Inspectorate
Department of the Environment

28196

SELF EXECUTIVE
OFFICER

7 FEB 1989

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218927

Switchboard 0272-218811

GTN 1374

Refer to 0603/2
Cleared

Prudential Property Services
1/2 Burkes Parade
BEACONSFIELD
Bucks
HP9 1NP

Ref.							Ack.	
C.P.O.	T.O.P.M.	D.P.	D.C.	B.C.	Admin.	File		
Received							3 FEB 1989	
Comments								

Your reference:

SSH/JP/1385

Our reference:

T/APP/A1910/A/88/101911/P6

Date: 1 FEB 89

1) DJ
2) CB
3) RB

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY M EDWARDS
APPLICATION NO: 4/0833/88

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Dacorum Borough Council to refuse outline planning permission for the erection of 12 flats with car parking on land at Ethylwin, Buncefield Lane, Hemel Hempstead. I have considered the written representations made by you, by the Council and also those made by the Thames Water Authority and the Health and Safety Executive (HSE). I inspected the site on 23 January 1989.

2. The site lies on the west side of Buncefield Lane opposite the oil and spirit storage depot of Shell UK Oil, which is a notifiable installation under the Notification of Installations Handling Hazardous Substances Regulations 1982. Whilst the likelihood of an incident involving a bund fire is considered by the HSE to be very low, they, nevertheless, recommend that any building on the appeal site be located a minimum of 60 m from the nearest tank bund.

3. Accordingly, from the written representations and my inspection of the site and it's surroundings I have formed the view that the principal issue in this case is whether, having regard to the requirements of the HSE, 12 flats together with ancillary facilities can be satisfactorily accommodated on the land without prejudice to the surrounding area.

4. The site lies at the eastern edge of Hemel Hempstead in an area much of which appears to be in industrial use. The site itself, however, is currently in residential use and is without notation on the adopted District Plan. The policy of the approved Structure Plan is to seek to make the maximum contribution to the housing programme from opportunities within existing towns in accordance with Government policy as expressed in Circular 15/84. On the basis of these policies the use of the land as proposed would be acceptable.

6. However, in order to satisfy the HSE requirement the development would have to take place in the rear 70% of the site. The sketch scheme which has been prepared demonstrates the effect of this limitation on a scheme of the proposed size, in that, in order to accommodate adequate parking and amenity areas the building is shown to be sited close to the northern boundary of the site. The northern elevation of the building would be likely to contain windows some of which may well serve habitable accommodation. The site is

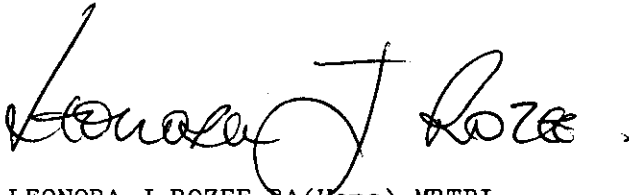
currently bounded on this side by a car park serving the sports field to the west and south. With the present openness of the adjacent land existing use might not seriously diminish the living conditions of future occupants of the proposed flats. However, if part of the building has to be removed for its outlook on the adjoining land, the way in which that land could be developed in the future would be prejudiced.

7. I appreciate that this is an outline application and alternative layouts might be devised to overcome this objection. Nevertheless, I think it unlikely that the site could be properly developed with the proposed number of units together with adequate and usable parking and amenity areas without hindering the way in which adjoining land could be developed. Accordingly, I conclude that the proposal represents overdevelopment of this site.

8. I have taken into account all other matters raised in the written representations but find nothing of such weight as to override the considerations which have led to my conclusions.

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

I am Gentlemen
Your obedient Servant

A handwritten signature in cursive script, reading 'Leonora J Rozee'.

LEONORA J ROZEE BA(Hons) MRTPI
Inspector

ENC

to the industrial estate to the north, without specific proposals the general presumption in the urban area of Hemel Hempstead is in favour of residential use. The other residential properties in Buncefield Lane have been redeveloped for industrial purposes, although planning permission was refused in March 1981 for the change of use of "Ethylwin" to parking, servicing and repair of commercial vehicles and ancillary office accommodation on the grounds that the road network was inadequate to carry the additional traffic and that the proposal was contrary to Policy 48 of the District Plan whereby new industry should be located within the existing industrial area. Although there are no strong grounds for objecting to this proposal from a policy point of view, the concerns of the Health and Safety Executive need to be taken into account. It would appear that the requirement for the flats to be at least 60 m from the edge of the nearest tank bund would mean that the building would need to be accommodated on the western ~~25~~ m of the site, on approximately ~~55~~% of the site. Not only would this produce a very unusual site layout but it would also place the building (as illustrated) very close to the site boundaries. This, in turn, could have consequences for any possible future uses of the adjoining land. It may be concluded, therefore, that as a result of the need to maintain a separation distance from the nearby oil terminal the proposal to construct 12 flats on the remaining part of the site would constitute overdevelopment.

✓ RECOMMENDATION - That planning permission be REFUSED (on form DC4), for the following reason:

Having regard to the requirement of the Health and Safety Executive that no part of the building should be closer than 60 m to the edge of the nearest tank bund at the adjacent oil terminal, the proposed development of 12 flats is excessive on the remainder of the site outside this 60 m limit, insofar as the building either could not be accommodated on the site or would be poorly sited in relation to the site boundaries and the remainder of the site and, in this position, could prejudice the longer term future of the adjoining land.

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