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Department of the Environment and Department of Transport

Common Services

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3 APR 1987

File

527 *CPO 3/4*

Pocknell, Crick and Co
Solicitors
29 Grosvenor Road
ALDERSHORT
Hants
GU11 3DS

Your reference

Mr E Pocknell

Our reference

T/APP/A1910/A/86/56037/P3

| R. | | Date | |
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| C.P.O. | D.F. | Adm'n. | File |
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31 MAR 87

Received

-3 MAR 87

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY SEYMOUR PLANT SALES AND HIRE
APPLICATION NO: 4/0836/86

1. I have been appointed by the Secretary of State for the Environment to determine the above appeal. This appeal is against the decision of the Dacorum Borough Council, to refuse planning permission for the demolition of existing buildings and their replacement by 15 low-cost housing units with garaging, all on land at the Construction Plant Depot, Jockey End, Gaddesden Row. I held a local inquiry into the appeal on 10 February 1987.
2. At the start of the inquiry, I was told that the existing buildings on the site are neither listed buildings, nor stand within a conservation area. Thus I continued the inquiry on the basis that planning permission is not required for the demolition aspects of the proposal before me.
3. The application now before me is stated to be in outline, but the application plans show details of the siting of the proposed houses and of the means of vehicular access thereto. For your part, you asked that I regard those details as illustrative and not as part of the application. The council raised no objection to your request. Accordingly, I continued the inquiry on the basis that the application before me is in outline and that all the standard matters are reserved for a future application.
4. From the oral evidence presented at the inquiry, from the written representations to the inquiry and from my inspection of the site and its surroundings, I am of the opinion that the main issues in this appeal are: firstly whether or not there is an identified need for the proposed housing within the meaning of Policy No 4 in the adopted Dacorum District Plan; secondly whether the proposed housing would cause undue harm to the Chilterns Area of Outstanding Natural Beauty which encompasses the appeal site, and; thirdly whether there are other important factors to take into account.
5. The appeal site is at the western extremity of the small settlement called Jockey End. Much of the site is in use for the repair and maintenance of civil engineering plant. For this purpose, there are 2 large single-storey buildings on site and around these buildings, the site is concrete paved. On inquiry day there were several large tracked excavators standing on that concrete. The remainder of the site is occupied by a bungalow (vacant on inquiry day) and its gardens. The flank and back boundaries of the site are fenced with corrugated metal sheets. This fencing was in a generally dilapidated condition.

6. The southern, western and northern boundaries of the site abut agricultural land. Across the road from the eastern boundary are houses and a public house. Many of the nearby houses are of modern construction and form a small estate comprising semi-detached houses, and terraces of 4 houses.

7. On the first main issue, I was told that the strategy of the approved Hertfordshire Structure Plan is to restrict the number of houses being built in the county. As regards Dacorum Borough, the evidence is that a study carried out jointly by the council, the county council and the Housebuilders' Federation has identified that there is significantly more than a 5 year supply of housebuilding land within the meaning of Circular 15/84. Thus I am satisfied that there is no dearth of housebuilding land in the Borough as a whole. However, I bear in mind the advice in Circular 15/84 that the fact that the housebuilding requirements of an area can be met from identified sites is not in itself a good reason for refusing permission to build houses elsewhere.

8. Notwithstanding this sufficiency of building land, Policy 4 of the adopted Dacorum District Plan envisages that some housebuilding may take place at small settlements (such as Jockey End) subject to certain provisos. An important proviso is that there should be a demonstrated need for that housing within the meaning of paragraphs 5.7 and 5.8 of the District Plan. Great Gaddesden Parish Council has surveyed that need and has identified a demand for some additional low-cost housing in the parish as a whole (which includes settlements in addition to Jockey End). However, from the fact that the survey was of the parish as a whole, it seems to me reasonable to deduce that the identified demand also relates to the parish as a whole and not specifically to the Jockey End part thereof. Thus I find the evidence insufficient to convince me that this identified demand equates to a demonstrated need for the erection of 15 additional dwellings on this particular site at Jockey End. Accordingly, my conclusion on the first main issue is that an approval to your client's proposal would have to be as an exception to the normal application of Policy 4.

9. In the circumstances, I recall the advice in Circular 14/85 which is that the provisions of the Development Plan form only one of the material considerations to be taken into account in dealing with a planning application. I note also the advice that there is a presumption in favour of allowing such applications unless they would cause demonstrable harm to an interest of acknowledged importance. From the evidence, it is clear that the main such interest at risk here arises from the fact that the site is within the Chilterns Area of Outstanding Natural Beauty. Thus I continue by looking at the second main issue.

10. As the appeal site is abutted on 3 sides by agricultural land, I assess that the proposed houses would be seen as a finger of development extending from the present houses at Jockey End into open countryside. In my view, this finger would be seen not as a natural rounding off of the present area of housing, but as an unnatural extension of housing into the countryside around Jockey End. Further, I assess that as a matter of degree this finger would be seen as very intrusive into, and thus as causing considerable harm to the amenity given by the AONB.

11. On the other hand, I share the view expressed at the inquiry that the present uses of the site are very unsightly. I heard that it is probable that these uses would continue should this appeal be dismissed. I note that they also constitute a finger of development into the countryside around Jockey End. Thus I find it reasonable to look at the balance between the intrusiveness of the present use of the site and that of its proposed use. In my view, the proposed use of the site would be less unsightly than is its present use. Thus I find that the proposed development would represent a reduction in the present level of harm to the AONB.

12. Taking my conclusions on the first and second main issues together, I find at this stage that the arguments about the proposed development are finely balanced. I continue by looking at the third main issue.

13. I was impressed by the very high level of support which has been given to your proposal. The local Member of Parliament, the Great Gaddesden Parish Council, and several local residents have written in favour of that proposal; the Chairman and Vice Chairman of the Parish Council and a local resident spoke in its favour. After the inquiry closed, I received 4 letters and a petition all in favour of that proposal. On the other hand, an owner of Southings Farm wrote, and the farmer there spoke against that proposal. They consider that the occupants of the proposed houses would be unduly aware of noise, both vehicular and animal, emanating from the farm: their other arguments essentially reiterate and support the case put by the council.

14. For my part, it seems that with careful attention to the design of the proposed houses, it should be practicable to ensure that the residents of those houses are not unduly disturbed by farm noise when they are indoors. Accordingly, I conclude that the balance of argument on the third main issue is in favour of the proposed development. Attaching weight to my conclusions on the 3 main issues, I find that the balance is just in favour of my allowing this appeal subject to conditions.

15. I have taken all the other submissions into account, but find them to be of insufficient weight to alter my decision on this appeal.

16. As regards conditions, Nos 1 and 2 below are imposed to comply with the requirements of Sections 41 and 42 of the 1971 Act. Condition 3 derives from the evidence at the inquiry concerning a bus shelter which would obstruct the sightlines which Hertfordshire County Council (as highway authority) require at the junction between the future site access and the public roads. The evidence was that it is likely that this shelter would be moved within a reasonably short period after Inquiry Day. Condition 4 I regard as important to ensure that sufficient parking space is provided and kept as such to minimise the need for on-street parking in the vicinity of the proposed houses.

17. As regards the standard conditions directed by Hertfordshire County Council as highway authority, I have considerable reservations about the propriety of Nos 1 and 9. That is because both appear to require the developer to carry out works within the highway and therefore, on land which is and would remain outside his control. It may be considered appropriate for the county council to invoke powers in the highways Act 1980 to achieve the aim of those standard conditions. As regards standard condition No 4, it seems to me that this condition is unnecessary in this instance as it appears that it only sets out part of the specification for an acceptable application for approval of reserved matters.

18. 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 15 low-cost housing units with garaging all on land at the Construction Plant Depot, Jockey End, Gaddesden Row and the plans submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the buildings, 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 after 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 after 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 matters approved;

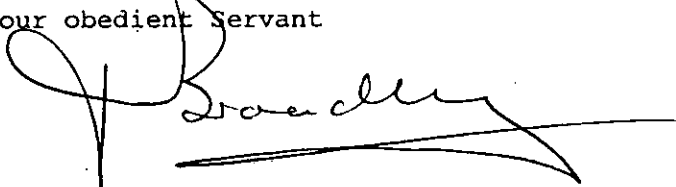
3. the development hereby permitted shall not be begun until after the bus shelter has been relocated from this present position in front of the appeal site to a place outside the 4.5 x 70 m sightlines at the proposed junction between the site access and the public highways;

4. no dwelling shall be occupied until 15 garages have been erected within the site and until 7 spaces for the open air parking of cars have been laid out within the site, and these garages and parking places shall not thereafter be used for any purpose other than for the parking of vehicles.

19. Attention is drawn to the fact that an applicant 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.

20. 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

A handwritten signature in dark ink, appearing to read 'J D Broadley', with a long horizontal flourish extending to the right.

J D BROADLEY BSc MEng CEng MICE MStructE
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Seymour Plant Sales & Hire
Blacknest Works
Binsted
Alton
Hants

Cromwell-Parmenter Associates
Still House
29 East Street
Farnham
Surrey GU9 7SW

Fifteen Dwellings (Outline)

at Seymour Plant Depot, Jockey End, Gaddesden Row.

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 12.5.86. and received with sufficient particulars on 11.6.86. 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 site is within a rural area beyond the Metropolitan Green Belt on the adopted Dacorum District Plan wherein permission will only be given for development for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is therefore unacceptable.
2. The adopted Dacorum District Plan shows the site to be within the Chilterns Area of Outstanding Natural Beauty wherein the policies of the local planning authority seek to preserve the appearance of the area, encourage agriculture and conserve wildlife by the restriction of further development having particular regard to the siting, design and external appearance of buildings. The proposed development is unacceptable in the terms of these policies.
3. The proposal is not supported by evidence of local need sufficient to satisfy Policy 4 of the adopted Dacorum District Plan.
4. The proposed development would constitute a very prominent intrusion into open countryside and would adversely affect the character and appearance of the area.

Dated 17. day of July 19.86..

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.