

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mrs. R. Dolton
35 Roseberry Court
Watford
Herts.

Messrs. Lardi Cox & Partners
1 The Old School House
George Street
Hemel Hempstead
Herts.

..... Two detached dwellings

at Land at Smith Street, Berkhamsted, 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 26 May 1989 and received with sufficient particulars on 30 May 1989 and shown on the plan(s) accompanying such application..

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

1. Having regard to the small size of the site, nearby dwellings and the adjacent playground, the proposal by reason of its size and design would result in a development which would be out of character with the environment of the locality.
2. The use of and noise from the adjacent playground would be likely to have a detrimental effect on the privacy and environment of the occupiers of the proposed dwellings.
3. The loss of the existing garages on the site would be likely to lead to increased street parking on roads in the vicinity, and George Street in particular, presenting difficulties and hazards for both vehicles and pedestrians as well as obstructing the free passage of emergency vehicles.

Dated 19th day of October 19 89

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.



Planning Inspectorate
Department of the Environment

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1) ~~1)~~
2) CB

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						GTN 1374
Lardi Cox and Partners 1 The Old School House George Street HEMEL HEMPSTEAD Hertfordshire HP2 5HJ			Ack.		Your reference	
C.P.O.	T.C.P.M.	D.P.	D.C.	B.C.	Admin.	
					DE/CA/S1175	
					OUR reference	
					T/APP/A1910/A/90/154591/P5	
Received					Date	
21 SEP 1990					20 SEP 90	
Comments						

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MRS R DOLTON
APPLICATION NO:- 4/0966/89

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This is against the decision of the Dacorum Borough Council to refuse planning permission for the erection of 2 detached houses and garages on land off Smith Street, George Street, Berkhamsted. I have considered the written representations made by you and by the Council and also those made by an interested person. I have also considered those representations made directly by other parties or interested persons to the Council which have been forwarded to me. I inspected the site on 22 August 1990.
2. From these representations and my inspection of the appeal site and surroundings I consider that the main issues in this case are whether the development proposed would be significantly out of character with its surroundings and whether it would give rise to serious parking problems in the area.
3. The 2 houses proposed would be built on the site of some lock-up garages. Immediately to the north there is a children's playground and small recreation area, to the east an open area of ground which was formerly used as a builder's yard, while just to the south of the site is the Grand Union Canal with the towpath running adjacent to the appeal site.
4. The houses are, in my view well designed and would fit well on this site. There is an existing wall running along the playground boundary which is about 1½ m high and which would be retained. Along the boundary with the towpath there is a row of mature trees which could also be retained. I take the view that the houses would be very much in keeping with their canalside location and with the small terraced housing nearby. I do not consider that the site would be overdeveloped or that the use of the playground would be unduly disturbing for the occupants of the new houses. The rear gardens of the houses would be on the side away from the playground and the latter would, by its very nature, be unlikely to be used late at night.
5. The appeal proposal would of course result in the demolition of the existing 11 lock-up garages of which I understand 8 are at present let to residents of George Street. Of course I recognise that these 8 residents would, as a result of the appeal scheme going ahead, have to park in all probability on nearby streets where there is already a fairly high incidence of parking. I also acknowledge that in a recent appeal decision a proposal for residential development on this site was turned down.

6. On the other hand the appeal scheme itself would meet current Council car parking standards. Also I have noted that the Inspector who dealt with the previous appeal on this site dismissed it because he considered that the housing proposed at that time would have resulted in the site being overdeveloped. He did not consider that the loss of garaging space in itself constituted a valid reason for dismissing that appeal.

7. This is my own view whereas with regard to the current appeal scheme I do not consider that it would result in the site being overdeveloped. I also considered the Council's submission that if this appeal were allowed then this might create a precedent for the redevelopment and consequent loss of a similar row of lock-up garages immediately to the west of the appeal site. However, I have concluded that the site and surroundings of this other group of garages are sufficiently different for any proposal there to be considered on its own merits.

8. I have taken into account all the other matters raised but none of these has been of sufficient weight to override the considerations which have led me to my conclusion.

9. I propose to allow the appeal subject to conditions. In my view these need include only those requiring the commencement of development and boundary treatment to the eastern side of the site because this seems to me to require further clarification. Also I consider that a condition requiring details of all trees on the site to be retained and their means of protection during construction would help to protect the trees between the appeal site and the canal towpath. I do not consider that a condition requiring the provision of visibility splays at the vehicular access to the houses, and details of bin storage together with a condition restricting permitted development rights, as suggested by the Council, would be necessary in this particular case. However, garaging for the houses would be necessary in this case bearing in mind the character of the area and, bearing in mind also that these garages would not be integral with the houses. I propose to attach a condition requiring their provision.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of 2 detached houses and garages on land off Smith Street, George Street, Berkhamsted in accordance with the terms of the application (No 4/0966/89) dated 26 May 1989 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. before the development hereby permitted is commenced details of the treatment of the eastern boundary of the appeal site shall be submitted to and approved by the local planning authority and work to this shall be carried out before the houses are first occupied;
3. before the development hereby permitted is commenced details of a scheme of landscaping, which shall include indications of all trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development shall be submitted to and approved by the local planning authority; such means of protection shall be made before development on the site is commenced;

4. the garages shown on the submitted plans 1175/101 and 102 shall be constructed in accordance with the details shown on those plans and shall be available for use before the dwellings hereby permitted are first occupied.

11. 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 consent, agreement or 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 57 of the Town and Country Planning Act 1990.

I am Gentlemen
Your obedient Servant

EB Williams

E B WILLIAMS DipTP ARICS MRTPI
Inspector