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CHIEF EXECUTIVE
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15 SEP 1988

File No.
Refer to ... CPO

CIC

Your reference

Our reference PLANMER/21910/188/851
DACORUM BOROUGH COUNCIL/802

13 SEP 1988

Ask

C.P.O.	D.P.	D.C.	B.C.	Admin.	F.

Received

15 SEP 1988

Comments

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36 AND SCHEDULE 11

APPEALS BY MR WILLIAM W WOODS

APPLICATION NOS: 4/1314/87 AND 4/1315/87LB

I am directed by the Secretary of State for the Environment to refer to your client's appeals:

(A) under Section 36 of the Town and Country Planning Act 1971 against the decision of Dacorum Borough Council to refuse planning permission for the erection of a single dwelling following the demolition of an existing store on land at the rear of the B. Idgewater Arms, Little Gaddesden, Berkhamsted, Hertfordshire; and

(B) under paragraph 8 of Schedule 11 to the Act against the decision of the same Council to refuse listed building consent for the demolition of the store at the above site.

An officer of the Department has visited the site and has considered the written representations made in support of the appeal together with those of the Council and other interested persons. A copy of his report is appended to this letter. He recommended that, in view of the considerations expressed in paragraphs 10 to 14 of his report, appeal (A) should be dismissed and appeal (B) should be allowed.

On the question of granting planning permission, the Secretary of State notes that the Council's reason for refusal no. (1) was that the proposed development is contrary firstly to Policy 2 of the adopted Dacorum District Plan, whereby planning permission for development in the rural area is normally given only for agricultural or other purposes appropriate to a rural area, and secondly, to Policy 6 of the same Plan, in that replacement dwellings which are permitted should be of similar size to those they replace and should not be more intrusive in the landscape. The Department's officer based his appraisal of the planning appeal on the merits of the proposed new dwelling in relation to the rural settlement policies contained in the approved Structure Plan and the adopted District Plan. Whilst the Secretary of State accepts that this is the main issue in this case, he takes the view that the existence until 1985 of a dwelling on the site and the 1983 decision on appeal in favour of a replacement dwelling are material considerations which he should take into account.

4. You argue on behalf of your clients that the principle of allowing a replacement dwelling has already been established by the 1983 appeal decision and that the dwelling now proposed is not so much larger than that previously envisaged or the original dwelling that it is in conflict with Policy 6 of the District Plan. The Secretary of State, having weighed the evidence submitted and the views expressed by all the parties, considers that the proposed 3-storey, 5-bedroom house with a total floorspace of nearly 300 sq m. is of such a size in relation to the existing buildings and to the buildings which it could be said to replace that the proposal is not in accord with Policy 6. He notes that the 1983 appeal decision was based on the understanding that the new dwelling would merely replace the then existing dwelling using the same site and area of land; the dwelling now proposed, however, is much higher and covers a larger ground area than the original single-storey dwelling shown on drawing no. WWW/APP/1. Even if the existing store/garage which it is proposed to demolish is included in the calculation, which ought not necessarily to be the case - the Secretary of State takes the view that the proposed redevelopment of the site is out of scale with the buildings previously occupying the site and with the complex of buildings surrounding the proposed new dwelling.

5. With regard to the rural settlement policies operated by the Council, the Secretary of State agrees with his officer that the proposed development conflicts with those policies in the approved Structure Plan and the adopted District Plan which seek to restrain development outside designated areas and to severely restrict development in the rural areas beyond the Green Belt. In particular, he considers that the appeal proposal is contrary to Structure Plan Policy 15 and District Plan Policy 2 and does not meet any of the exceptions allowed for by those policies.

6. The Secretary of State therefore concludes that, for the reasons given above, that the proposed new dwelling would conflict with rural settlement policies and with the requirement in District Plan Policy 6 that a replacement dwelling should be of similar size to that which it replaces, planning permission should be refused.

7. Turning to the appeal for listed building consent to demolish the existing store, the Secretary of State accepts the view of his officer that the building assesses no particular qualities and makes little contribution to the setting of the Grade II listed building. He therefore agrees that there is no justification for the withholding of listed building consent. With regard to the conditions suggested by the officer, the Secretary of State agrees that a requirement that the site be cleared and reinstated after demolition of the building would be appropriate.

8. For the reasons stated above, the Secretary of State hereby dismisses appeal (A) and allows appeal (B) and grants listed building consent for the demolition of the building in use as a store on land at the rear of the Bridgewater Arms, Little Gaddesden, Berkhamsted, Hertfordshire in accordance with application No. 1315/87LB dated 20 August 1987, subject to the following conditions:

- 1) The works hereby permitted shall be begun no later than five years from the date of this letter.

11) Consequent to demolition of the building, the site shall be cleared of excess material and reinstated to the level of the adjoining ground, either by the provision of a layer of 200mm of top soil to extend the adjacent soft garden area or a layer of gravel on a suitable base as an extension to the garage court.

9. This letter does not convey any approval or consent required under any enactment, bye-law, Order or Regulation other than sections 55 and 56 of the Town and Country Planning Act 1971.

I am Sir,

Your obedient servant

R. A. SANDERSON

Authorised by the Secretary of State
to sign in that behalf