



Department of the Environment and Department of Transport

Common Services

Room 1417 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

22723

CHIEF EXECUTIVE
OFFICER

12 NOV 1987

File No.

Refer to

Cleared

Direct line 0272-218 927

Switchboard 0272-21881

GTN 2074

Mr K J M Todd AMIAS
26 First Avenue
DUNSTABLE
Bedfordshire
LU6 3AL

~~1/MS~~
~~2/MS~~
~~3/MS~~

Your reference

KF/Austin/PLANNING DEPARTMENT
Our reference DACORUM DISTRICT COUNCIL

Ref 1/APP/A1910/A/87/069196/B2

C.P.O.

Date

12 NOV 87

B.C.

Admin.

File

Received

12 NOV 1987

Comments

SCHEDULE 9

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND
APPEAL BY MR R AUSTIN
APPLICATION NO:- 4/1327/86

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal which is against the decision of the Dacorum Borough Council to refuse outline planning permission for the erection of a house adjacent to "Gleniris", Caddington Common, Aley Green, Luton. I have considered the written representations made by you and by the Council, and also those made by the Markyate Parish Council. I inspected the site on 22 September 1987.
2. Although the development is described as being a house, you indicated in your representations that your client would accept a condition restricting the development to a single storey only. Therefore I have determined the appeal with this in mind, as being for the erection of a dwelling.
3. From my inspection of the site and its surroundings, and from the representations made, I consider the main issue to be the effect which the development would have on the rural character of the area bearing in mind the Council's policies.
4. The appeal site is set back some distance from the road known as Caddington Common along a gravel driveway which serves 2 bungalows. The driveway is private and suburban in character, in my opinion, with mown verges, ornamental trees and clipped hedges, and at its junction with Caddington Common, it has a bungalow at each corner which are part of a frontage of dwellings on this part of the north-eastern side of the road. The site is secluded at the far end of the driveway, out of sight except from neighbouring residential properties; a tall hedge screens the site from farmland to the north-east. For these reasons, and because the site already has a domestic character as it is laid out as a garden and contains a double garage, I do not consider that development of the site by a single storey dwelling would have a significant visual impact on the surrounding area.
5. Furthermore, as there is a number of dwellings in the area, and as the access of the driveway onto Caddington Common has good visibility, I do not consider that the additional traffic or activity that would result from one additional dwelling would be significant.
6. I note that the Council has argued that the development would be contrary to the policies for the control of development in the countryside, and I agree with them in general about the importance of preventing development which encroaches upon, or is detrimental to the character of the countryside. However in this case, which I consider is exceptional, I do not believe that any demonstrable harm would be caused to an interest of acknowledged importance, and therefore I do not consider that the development should be refused for purely policy reasons in this location outside the green belt. Nor do I consider that this decision will establish a

precedent as the location of the site is most unusual in that it is contained by existing residential development on 3 sides, and on the fourth side by established screening.

7. I have taken into account all other matters raised by the written representations, but they do not affect my conclusions on the planning considerations leading to my decision.

8. You indicated in your representations that the appellant would be willing to accept a restriction that the dwelling be of a single storey. All the dwellings which front onto or adjoin the driveway are bungalows, and this form of dwelling would have less visual impact than a 2 storey house. For these reasons, I consider that a condition restricting the dwelling in this way is appropriate and necessary.

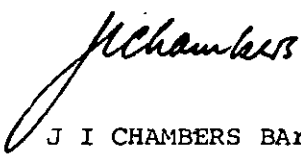
9. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of a dwelling adjacent to "Gleniris", Caddington Common, Aley Green, Luton in accordance with the terms of the application (No 4/1327/86) dated 12 September 1986 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 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;
3. the dwelling hereby permitted shall be a bungalow.

10. 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.

11. 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


J I CHAMBERS BArch MCD MRTPI
Inspector

Under the provisions of Section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case maybe, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mr. R. Austin
Bylands
Caddington Common

Mr. K. Todd
1 Cookfield Close
Dunstable
Beds LU6 1TJ

One Dwelling - Outline

at Adjacent Gleniris, Caddington Common

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 12.9.86 and received with sufficient particulars on 18.9.86 and shown on the plan(s) accompanying such application.

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

The site is within a rural area beyond the Green Belt on the adopted Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use of existing buildings 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 unacceptable in the terms of this policy.

Dated 6 day of November 1986

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.