

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To

Robert Green, Esq.,
22 Elstree Road,
Woodhall Farm,
Hemel Hempstead,
Herts..

Change of use of amenity land to residential garden
and erection of 6 ft. fence

at 22 Elstree Road, 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 26 September 1986 and received with sufficient particulars on 26 September 1986 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 proposal to enclose this open area of amenity land would detract from the character and appearance of the area.
2. The proposed fence would obstruct visibility on the adjacent highway.

Dated 6th day of November 1986.

Signed

Chief Planning Officer

SEE NOTES OVERLEAF

P/D.15

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.

cm
LG

Department of the Environment and Department of Transport

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| PLANNING DEPARTMENT | | Your reference | |
| Mr R D Green | DACORUM BOROUGH COUNCIL | Our reference | |
| 22 Elstree Road | CHIEF EXECUTIVE OFFICER 1-2 OCT 1987 13 OCT 1987 10 12 10 | T/APP/A1910/A/87/069039/P3 | |
| Woodhall Farm | | Date | |
| HEMEL HEMPSTEAD | | -8 OCT 87 | |
| HP2 7PJ | Received | | |
| Comments | Closed | | |
| Sir | | | |

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO:- 4/1361/86

1. I have been appointed by the Secretary of State for the Environment to determine your appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the change of use of amenity land to residential garden and the erection of a 6 ft fence at 22 Elstree Road, Hemel Hempstead. I have considered the written representations made by you and by the council, and also those made by interested persons. I inspected the site on 26 August 1987.

2. The appeal site is situated in a residential area known as Wood Hall Farm close to the northern boundary of Hemel Hempstead. It consists of a triangular shaped grassed plot adjacent to your dwelling, garage and vehicular access, No. 22 Elstree Road. Along the south-western boundary with the footway of Elstree Road is an ornamental hedge approximately 4 ft in height. Immediately to the north standing approximately 3 ft lower is No. 24 Elstree Road. On the opposite side of the road to the west is a group of houses standing around an open green.

3. From my inspection and from my reading of the representations it is clear to me that there are 2 main issues in this case, firstly, whether the enclosure of the site would be detrimental to the appearance of the surrounding area and secondly, whether the fence would obscure visibility from the vehicular access to No. 22 Elstree Road and thereby cause danger to other road users.

4. On the first issue, whilst I appreciate the problems of maintenance and that there are other green spaces nearby which are maintained by the council, it is my opinion that these spaces and open gardens make a significant contribution to the attractiveness of this housing area. From my visit I find that I agree with the council in that I consider that the appeal site is in a prominent position in relation to the surrounding dwellings and roads. This to my mind, makes it an important amenity space the loss of which would detract from the open character of the area.

5. The occupier of No. 24 Elstree Road has objected to the erection of a 6 ft fence as he believes this could lead to a loss of light to the rear ground floor windows of the property. Because of the distance in levels referred to in paragraph 2 above, and the height of the fence I accept that there could be some loss of light and also outlook which I consider would be detrimental to the amenities that occupants of No. 24 could reasonably expect to enjoy. I have read that you are prepared to erect a lower fence in the vicinity of that property which would be acceptable to your neighbour. However this is not a matter for my determination.

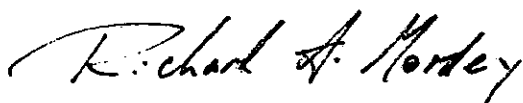
6. On the second issue, I have noted that the Director of Technical Services has objected to that part of the fence which would stand along the back of the footway in Elstree Road because he requires a 2.4 m x 70 m sight line at the access to your garage. From my observations, whilst visibility to the south would continue to be unrestricted, if a 6 ft high fence was erected I consider that visibility from the access to the north-west would be restricted to approximately 13 yards. This to my mind is quite inadequate and would create a source of danger to other road users and pedestrians.

7. I have also read that you have no objection to setting back the fence on the Elstree Road frontage in a similar way to that approved at No. 8 Elstree Road. It is my opinion that a fence would have to be set back some considerable distance in order to achieve adequate visibility and also to maintain the open appearance of the area. However, this again is not a matter for my determination.

8. I have considered all other matters raised including your reference to the purchase of the land but find nothing to be as significant as the points I have discussed.

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

I am Sir
Your obedient Servant



RICHARD A MORDEY BA MCD MRTPI
Inspector

Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

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.