

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To, Messrs E J Waterhouse & Sons Ltd
Kings Works
Kings Lane
Chipperfield, Herts

Flatt & Mead (Mr S J Brooker)
11 Marlowes
Hemel Hempstead
Herts

.... Four Dwellings and access road (Outline)

.....

at Rear of 67, 69B and 97 Langley Hill, Kings Langley

.....

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 permit, in accordance with the provisions of Article 5(2) of the Town and Country Planning General Development Orders 1977-81 the development proposed by you in your outline application dated 11th. November 1985 and received with sufficient particulars on 11th. November 1985 and shown on the plan(s) accompanying such application, subject to the following conditions:-

- 1 The development hereby permitted shall not be carried out otherwise than in accordance with detailed plans and drawings showing the siting, layout, design, landscaping and external appearance of the building(s) and the means of access thereto which shall have been approved by the local planning authority, before any development is commenced.
- 2 (a) Application for approval in respect of all matters reserved in Condition 1 above shall be made to the local planning authority within a period of . 3. years commencing on the date of this notice.
(b) The development to which this permission relates shall be begun by not later than whichever is the later of the following dates:-
(i) the expiration of a period of . 5. years, commencing on the date of this notice.
(ii) the expiration of a period of . 2. years commencing on the date upon which final approval is given by the local planning authority or by the Secretary of State or, in the case of approval given on different dates, the final approval of the last such matter to be approved by the local planning authority or by the Secretary of State.
- 3 The details to be submitted in accordance with Condition 1 hereof shall include:-
(a) Plans, sections and details of the construction and layout of roads, footways and street lighting.
(b) Boundary treatment and a survey of the site including levels, natural features, trees and hedges.
- 4 Adequate arrangements shall be made to the satisfaction of the local planning authority for the protection of all trees on the site which are to be retained to prevent damage during constructional works. Any trees accidentally damaged shall be replaced by approved species in the first planting season thereafter.

- 5 Details submitted in accordance with Condition 1 of this permission shall illustrate the provision of single storey dwellings, and notwithstanding the provisions of the Town and Country Planning General Development Order 1977 or any amendments thereto, there shall be no residential accommodation above ground floor level.

The reasons for the local planning authority's decision to grant permission for the development subject to the above conditions are:-

1. To comply with the provisions of Regulation 5(2) of the Town and Country Planning General Development Order 1977.
2. To comply with the requirements of Section 42 of the Town and Country Planning Act, 1971.
3. To ensure the proper development of the site.
4. In the interests of visual amenity.
5. To safeguard the residential amenity of the area.

Dated 13th day of ... March 19 86

Signed..... *C. J. Parson*

Designation CHIEF PLANNING OFFICER

NOTE

(1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.

(2) 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 section 36 of the Town and Country Planning Act 1971 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Department of the Environment, Caxton House, Tothill Street, London SW1H 9LZ.) 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 (a), to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

(3) 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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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.

(4) 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 section 169 of the Town and Country Planning Act 1971.

(a) The statutory requirements are those set out in section 36(7) of the Town and Country Planning Act 1971, namely sections 29(1), 30(1), 67 and 74 of the Act.



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Department of Transport**

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Platt & Mead Estate Agents 11 Marlowes HEMEL HEMPSTEAD Herts HP1 1LA	CHIEF EXECUTIVE OFFICER 29 OCT 1986 File Ref. Ref. C.P.O. ... 29/10.		YOUR REFERENCE DACORUM DISTRICT COUNCIL SJB/JER			
	Ref. Our reference		Ack T/APP/A1910/A/86/049049/P2			
	C.P.O.	D.P.	Date	O.C.	B.C.	Admin
			28 OCT 86			
		Received		30 OCT 1986		
		Comments				

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY E J WATERHOUSE & SONS LTD
 APPLICATION NO:- 4/1421/85

- I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to grant outline planning permission subject to conditions for a residential development of 4 dwellings, and access, on land at the rear of 97, 69b and 67 Langley Hill, Kings Langley. I have considered the written representations made by you, by the council and by the Kings Langley Parish Council, together with those made by interested persons. I inspected the site on 3 September 1986.
- The condition in dispute is No 5 which provides that details submitted in accordance with condition 1 of this permission shall illustrate the provision of single-storey dwellings, and notwithstanding the provisions of the Town and Country Planning General Development Order 1977 or any amendments thereto, there shall be no residential accommodation above ground floor level.
- The terms of Section 36(3) of the Town and Country Planning Act 1971 enable me to vary any part of the decision of the council and to deal with the application as if it had been made to me in the first instance. I have accordingly, and in view of the circumstances of the case discussed below, considered not only the condition in dispute, but also the other conditions imposed by the council.
- I deal first with the nature of the application. The application was made in outline form but was accompanied by a plan showing the siting of the proposed dwellings and access. As none of these details were indicated as being for illustrative purposes only, they must, in accordance with the advice given in paragraph 37 of Departmental Circular 1/85, be treated as part of the development in respect of which the application is being made. They cannot be reserved for subsequent approval, as condition 1, and condition 3 in part, purport to reserve them. It follows that I must consider siting and access as part of this application. Although design is a reserved matter, it is proper to consider at this stage the need for conditions arising from the nature of the development as submitted, and from its effect on its surroundings.
- Turning to the planning merits of the case, your clients wish to erect 2-storey houses. From my consideration of the written representations, and my inspection of the site and its surroundings, it seems to me that the main issue is

the effect of the 2-storey residential development proposed on the amenities of the occupants of neighbouring houses, in terms of outlook and dominance.

6. The location of the 4 dwellings proposed would be in backland, with the nearest dwelling being sited about 44 m from the rear elevation of 97 Langley Hill to the west. The presence of 2-storey houses, at such a distance, would not materially affect the amenities of the occupants of houses west of the appeal site, in planning terms, although they would be visible to some degree through screening vegetation. The southernmost house would be about 17.5 m north of the rear elevation of 69b Langley Hill. A 2-storey house, about 9 m wide and set back slightly from the direct line of vision from the rear windows of 69b, would not be an over-dominant feature at such a distance; the house would extend across only part of the overall view seen from the rear of No 69b. Views of this southernmost proposed house, from existing dwellings on either side of 69b, would be oblique.

7. I have also considered the question of overlooking. In general terms distances and screening would again prevent any problems. Any main room first floor windows in the south elevation of the southernmost house would be less than 20 m from the facing first floor window of 69b, and would over look the rear garden of that house. There is no development at present overlooking the rear elevation of No 69b. However, whether overlooking were to occur would depend on design details, which should therefore provide for the outlook from first floor main rooms of the southernmost house to be in other directions. In no other respect would the amenities of neighbouring occupants be materially harmed by your clients' proposal.

8. The southern part of this overgrown site forms part of the Kings Langley Conservation Area, but is difficult to see from any public place because of the screen of houses, on Langley Hill, which are a prominent part of the conservation area. Some backland development has also been permitted north of the appeal site, one dwelling not being restricted to a single storey.

9. Although the council's committee decided to impose condition 5 after having earlier resolved to grant a planning permission which did not include this condition, the condition itself is not unduly restrictive or unreasonable in the terms of Circular 1/85, and effects on neighbouring occupant's amenities or on the character of an area are matters relevant to planning. However, in view of my conclusions on the main and subsidiary issues, I agree that there is no need for condition 5, especially bearing in mind the presumption against limiting the application of development orders, contained in Circular 1/85. The facts that a condition similar to condition 5 was imposed on the grant of planning permission for the development north of the site, and that no objection was raised, carry far less weight than the tests for conditions set out in Circular 1/85.

10. I have also carefully considered whether condition 4 is sufficiently precise and as a result have concluded that the wording "to the satisfaction of the local planning authority", as explained at paragraph 27 of Circular 1/85, is unreasonably vague. I therefore propose to substitute a replacement condition.

11. I therefore intend to discharge condition 5, and also, under the terms of Section 36(3) of the Town and Country Planning Act 1971, to replace conditions 1 and 3 with new conditions omitting reference to matters which cannot be reserved.

12. I have taken into account the other matters raised, including allegations of delay, but all of these matters are outweighed by the material considerations leading to my decision.

13. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and discharge conditions 1, 3 and 5 of the planning permission No 4/1421/85 dated 13 March 1986, and impose the following conditions on that planning permission:-

1. Approval of the details of the design and external appearance of the buildings, and the landscaping of the site shall be obtained from the local planning authority.
2. The details to be submitted in accordance with condition 1 shall include details of boundary treatment and a survey of the site including levels, natural features, trees and hedges.
3. No development shall take place until the landscaping details reserved under the terms of condition 1 have been submitted to and approved by the local planning authority. These details shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
14. 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.

I am Gentlemen
Your obedient Servant

C. Hughes

C HUGHES BA(Hons) DipTP MRTPI
Inspector