

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mr John V Patrick
1 Horton Gardens
Hemel Hempstead
Herts

.....Change of use of amenity green to form garden.....

at 1 Horton Gardens, 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 Undated and received with sufficient particulars on 9th November 1983 and shown on the plan(s) accompanying such application.

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

The proposed enclosure of this land and its use as residential garden would reduce the existing area of amenity green and have an adverse effect on the open character of the area.

Dated 15th day of December 1983.

Signed

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 Secretary of State for the Environment, Tollgate House, Moulton 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.
- (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 District 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.
- (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.



**Department of the Environment and
Department of Transport**

Common Services

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**CHIEF EXECUTIVE
OFFICER**

20 JUN 1984

File Ref.
Refer to ... *Clp 20/b* ...
Cleared

9653

Mr J V Patrick
1 Horton Gardens
HEMEL HEMPSTEAD
Herts

RECEIVED *gms* **20 JUN 1984**

Comments

Your reference

Our reference

T/APP/A/910/A/84/12081/P6

Date

18 JUN 1984

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO:- 4/1437/83

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Dacorum District Council to refuse planning permission for the change of use of amenity green to form garden at No 1 Horton Gardens, Hemel Hempstead. I have considered the written representations made by you and by the council and I inspected the site on Thursday 17 May 1984.

2. The site of the proposed development is part of a grass verge between the footpath along the western side of Elstree Road and the flank wall of No 1 Horton Gardens. The verge increases in depth from about 4 m to 12 m going south-eastwards from the junction of the 2 roads. The houses in this estate are mainly in terraced form and the layout is typical of many housing estates built on the 'open plan' principle. As the council have pointed out this design depends on maintaining an open aspect between houses and from footpaths and roads. For the most part there does not seem to have been any significant infringement of this principle. Consequently I consider that the main issue in your appeal is whether your proposal would have an adverse effect on the character of the street scene by reason of its visual impact.

3. Elstree Road is a winding loop road off the main neighbourhood spine, Shenley Road, with numerous culs-de-sac like Horton Gardens spurring off it. Therefore the clearer the view a driver has when approaching a turning the better. Coming in a north-westerly direction along Elstree Road, ie just after turning off Shenley Road the entrance to Horton Gardens is clearly visible. Doing as you propose would obscure that view to some degree and would be undesirable for that reason. In addition it would create a visual disturbance to the present balance of open space on either side of Elstree Road at this point, in that it could not be matched by a fence and hedge in front of the staggered terrace of Nos 8-20. The same applies to the open front of the terrace to the north of yours.

4. In these circumstances I find that your proposal would have an adverse effect on the street scene by intruding on the open aspect on both sides of the road. I appreciate that responsibility for maintenance of the grass is uncertain and that this has caused you some annoyance but it does not follow that enclosing it and taking it into your garden is the only remedy. Nor can I accept that the other instances you have quoted of fences being erected established a precedent for your scheme; particularly as none, according to the council, has planning permission. By the same token allowing your appeal could be taken by them as an argument for permitting their own enclosures.

5. I have no doubt that you would look after any hedge and planting that you carried out in a proper manner. I also understand your concern for health and safety over people using the area as a tip but as I have said there are other remedies for dealing with that kind of problem. In considering these and all the other matters raised I am left with my conclusion unchanged that planning permission should not be granted.

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

I am Sir
Your obedient Servant



H BRINKWORTH BA DipTP MRTPI
Inspector