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Department of the Environment and
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Common Services

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CLERK	CLERK	C.	P.C.	Admin.	File

Received

18 JUN 1985

C G B Partnership
Chartered Architects
Manor House
Castle Street
BERKHAMSTED
Herts

Comments
Your reference

Our reference

T/APP/A1910/A/84/23802/P5 and

T/APP/A1910/A/85/27108/P5

Date 17 JUN 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEALS BY MRS C M BUSHBY
APPLICATION NO: 4/1188/84 AND 4/1476/84

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeals. These appeals are against the decisions of the Dacorum District Council to refuse outline planning permission for a. the erection of 5 Category 1 elderly persons flats and b. the erection of 3 Category 1 elderly persons flats on land adjacent to No 10 Torrington Road, Berkhamsted, Herts. I have considered the written representations made by you and by the council and also those made by the Berkhamsted Town Council and other interested persons. I inspected the site on 29 April 1985.

2. From my inspection of the site and its surroundings and my consideration of the representations made, it is my opinion that the main issue in both these cases is whether the proposals would overdevelop the site to the detriment both of the potential for the use of land to the north for residential purposes, and of the environment and amenities of both the new dwelling units and those existing in Torrington Road.

3. The natural topography of the area and the dimensions of the appeal site and its relationship with existing and proposed development on all sides present particular difficulties in achieving a satisfactory scheme. I have noted however that detailed permission has already been granted for a 3-storey, split level 4 bedroom house with an integral double garage. In my opinion the proposed change in the form of the development from a single family dwelling unit to a multi-unit building exacerbates the problems of providing a satisfactory environment for the new residents without serious detriment to other properties in the vicinity, particularly as it involves the location of at least one main living room at each level. Furthermore although I accept your contention that elderly persons tend not to require garden space to the same extent as with younger persons or families, the garden space available here is limited in both total area and depth. In my opinion its potential use by 5 dwelling units would adversely affect the privacy which could reasonably be expected by the residents in both the lower ground floor flats whose outlook would in any case be restricted. There is however adequate scope for overcoming these problems to a large extent by the reduction in the number of units to three as proposed in the second appeal application, and the use of small south facing balconies for the residents on the ground and first floor units as shown on the various illustrative schemes submitted.

4. You have indicated how the proposed 3 units could be accommodated within the same building shell as the family house already approved. In that way the council's

objection to the restricted depth of the rear garden could be overcome. There is however concern at the overshadowing of the rear garden area which would probably be mainly used by the lower ground floor unit; it seems to me therefore that by setting the building slightly further to the north as shown on the illustrative plan 844/4, submitted with the second application at the request of the council, that there is more scope for providing the lower ground floor flat with some south facing windows and external space.

5. Having considered the layout of the area to the north of the site which I understand is likely to be approved, it appears that a scheme for that area can be achieved which will not be seriously affected by problems of overlooking from the main living rooms of the scheme for 3 flat units on the appeal site. I am of the opinion that the alternative internal layouts which you suggest illustrate that any unacceptable problems of overlooking are capable of being resolved at the detailed design stage. That will be a matter for further consideration by the council by which time a final decision may have been given on the design of the old persons units proposed to the north of the site.

6. With regard to car parking provision, this is a matter of considerable concern to existing local residents in Torrington Road. The proximity of the road to the shopping area certainly makes it vulnerable to use by shoppers or those employed in the town centre. Although therefore the proximity of the appeal site to the shops may make the flats attractive to non-car owners and although car ownership tends to be below average among the elderly, nevertheless the location of the site in my opinion also makes it important that sufficient off-street space is provided for residents. I do not consider that the shortfall effectively by one space on the larger scheme is acceptable; with the 3 unit scheme the shortfall is minimal and in my opinion should not override the benefits of providing 3 elderly persons units. I do not consider that this type of off-street parking provision would in this case adversely affect the general character and appearance of this part of Torrington Road which is very varied in building age and layout; in particular I do not consider that it will adversely impinge on the more open plan layout of the dwellings to the east, from which the site is separated by a flint wall.

7. I have considered all the other matters raised in the representations but there is nothing of sufficient weight to override those matters which have led me to my decision that proposals for 5 elderly person units should not be permitted, but that outline permission for the scheme for 3 elderly person units should be permitted.

8. For the above reasons, and in exercise of the powers transferred to me, I hereby a. dismiss appeal a. with respect to 5 elderly person category 1 units (reference APP/A1910/A/84/23802) and b. grant outline planning permission for the erection of 3 Category 1 elderly person units (reference APP/A1910/A/85/27018) on land adjacent to No 10 Torrington Road, Berkhamsted, in accordance with the terms of the application No 4/1476/84 dated 12 November 1984 (amended 7 December 1984) subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the buildings, 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:

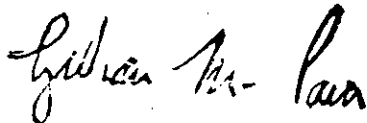
a. 5 years from the date of this letter; or

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.

9. 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.

10. 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 Gentlemen
Your obedient Servant



MISS G M PAIN MA DipTP(Lond) MRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mrs C M Bushby
10 Torrington Road
Berkhamsted

C.G.B. Partnership
Manor House
Castle Street
Berkhamstead

Three elderly persons flats

at Adjoining 10 Torrington Road, Berkhamsted

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 12.11.84 (Amended 7.12.84) and received with sufficient particulars on 13.11.84 and shown on the plan(s) accompanying such application.

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

The proposal to erect three flats constitutes over-development of this small site. In particular the rear elevation of the proposed building is situated only 4.2m from the northern boundary of the site. The proposal will result in overlooking of the adjacent land to the north thus prejudicing its satisfactory development. Furthermore the building, three storeys in height will result in substantial overshadowing of the small amenity area within the site as well as of a significant area of the adjacent site to the north.

Dated 10th day of January 1985

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, 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.
- (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.