

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To H P Tolley Limited
61/62 The Quadrant
Marshalswick
St Albans

18 One Bedroom Flats
at Boxmoor Baptist Church, London Road, Russell Place, Hemel Hempstead


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 29th November 1983 and received with sufficient particulars on 30th 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 development of the site for eighteen one bedroom flats would be contrary to Policy 65A of the adopted Dacorum District Plan which provides that planning applications for 10 or more dwellings on sites of less than 1 hectare not identified for residential development within the plan period may only be developed for residential purposes if the development meets (a) priority housing need or (b) provides an appropriate planning gain. Whilst the local planning authority has considered the applicants proposal to restrict occupation of nine of the units to elderly persons for a period of five years, it does not consider that such an undertaking is sufficient to meet any identified housing need other than in the short term. Accordingly the proposal fails to meet the criteria and is unacceptable in the terms of the policy.

Dated 29th day of March 1984

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.



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Our reference DACORUM DISTRICT COUNCIL

T/APP/A1910/A/84/15086/PS

Date

C.P.O.

27 SEP 84

A.C.

Admin.

File

Received

28 SEP 1984

Comments

Schedule 9

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY H P TOLLEY LIMITED
APPLICATION NO:- 4/1553/83

1. As you know 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 District Council to refuse planning permission for the erection of 18 x one bedroom flats on the site of the former Boxmoor Baptist Church, London Road, Russell Place, Hemel Hempstead. I have considered the written representations made by you and by the council. I inspected the site on 29 August 1984.

2. From my inspection of the site and surrounding area and from the written representations made, I consider that the main issue is whether or not there is sufficient reason in the particular circumstances of this case to justify overriding the requirement of policy 65A of the adopted Dacorum District Plan that permission will normally be granted for 10 dwellings or more on sites of less than 1 ha which are not identified in the plan only if the development meets priority housing need or provides an appropriate planning gain.

3. The approved Hertfordshire County Structure Plan applies an overall policy of growth restraint throughout the county. The manner in which this restraint is applied in Dacorum is embodied in the statutorily adopted Dacorum District Plan which sets housing control levels in an attempt to recoup over the period 1981-91 the excessive housing provision which occurred in 1976-81. Paragraph 5.8 of the Written Statement clarifies the categories of housing need which merit priority status when these housing control levels are being exceeded, as is currently the case. Policy 65A makes provision for this. One of the categories of priority status is elderly people. Despite the overall restraint policy, one of the instances in which the council are prepared to grant permission for 10 dwellings or more on sites of less than 1 ha which are not identified in the plan is when agreement is reached under Section 52 of the Town and Country Planning Act 1971 that dwellings shall be occupied in perpetuity by elderly persons. In your client's case, the council ask that only 9 of the proposed units should be the subject of such an agreement because they recognise that permission exists for 9 dwellings on the site.

4. The statutory development plan provisions therefore aim to halt past overbuild but still provide for priority needs. I appreciate that agreements restricting occupancy have been completed in the district and that the agreement your client would be prepared to accept controlling occupancy only for the initial 5 years would cater for a priority need purely in the short term and could lead to an erosion of the policy. There are, however, other material considerations which in my view weigh

heavily in this case. Whilst it is not listed as an identified housing site in the District Plan, the land is within a predominantly residential area, is currently vacant and unattractive, is eminently suitable for housing, though a scheme for landscape is clearly essential, and has planning permission for 9 dwellings. The current proposal is for development in similar physical form to that permitted, but would involve a significant reduction in the number of habitable rooms, plot coverage, number of likely occupants and traffic generation. There is no shortage of 3 bedroomed terraced or detached houses in this area and the proposal would therefore avoid a degree of overprovision of this type of dwelling, increase the stock of a type of unit for which there is a much stronger acknowledged demand both nationally and locally for all age groups, and thereby make more effective use of land as advised in Circular 15/84. In addition, the development now proposed would in my opinion be more appropriate and compatible with its surroundings than that for 9 dwellings and would further enhance the appearance of the site. Consequently, I take the view that an exception should be made to the adopted policy in this instance.

5. The Secretary of State's comments in modifying and making deletions in respect of the approved structure plan and in indicating his draft modifications to its submitted alterations are other considerations which add weight to this view.

6. I have taken into account all the other matters raised in written representations but they are of less importance than the considerations which have led to my conclusion.

7. 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 18 x one bedroom flats on the site of the former Boxmoor Baptist Church, London Road, Russell Place, Hemel Hempstead in accordance with the terms of the application (No. 4/1553/83) dated 29 November 1983 and the plans submitted therewith, subject to the following conditions:

i. the development hereby permitted shall be begun not later than 5 years from the date of this letter;

2. before the end of the first planting season following the first occupation of the dwellings hereby permitted, trees and shrubs shall be planted and amenity areas graded and seeded in accordance with a landscaping scheme the details of which shall have been agreed with the local planning authority. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 2 years of planting shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.

8. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of 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.

9. 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

Sandra G. Bruton

MRS S G BRUTON BA DipTP MRTPI
Inspector