

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



SAH

DACORUM BOROUGH COUNCIL

To Bestmark Developments Ltd
C/o E J Waterhouse & Sons Ltd
Kings Lane
Chipperfield

Hooper Skillen Associates
43 High Street
Rickmansworth
Herts WD3 1ET

... 2 one bedroom and 2 two bedroom flats
.....
at rear of 38-40 Bury Hill and 41 Cemmaes Court Road
... 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 ... 21 November 1988 and received with sufficient particulars on ... 22 November 1988 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 proposed flats would overlook the existing flats to the west to an unacceptable degree by reason of their proximity and higher ground level.
2. The proposed parking area due to its projection into rear garden space to the north west would be detrimental to the amenity of the adjacent rear gardens presently enjoyed by their owners by reason of visual intrusion, and pollution from noise and fumes.

Dated ... Twenty third day of February 1989

Signed..... *Wm Barnard*

Chief Planning Officer

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.



Planning Inspectorate
Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ
 Telex 449321

Direct Line 0272-218927
 Switchboard 0272-218811
 GTN 1374

Handwritten initials and signatures

Stimpsons Planning and Architecture
 14A St Albans Road
 Watford
 Herts WD1 1RX

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						
Ref.					Ack.	
REC	TCP	DP	DG	BC	Admin.	File/APP
16 FEB 1990						Date
Comments						

Your reference 3187/AEM
 Our reference FIB/APP/A1910/A/89/125608/P8

15 FEB 90

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY BESTMARK DEVELOPMENTS LTD
 APPLICATION NO 4/2123/88

- 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 refuse planning permission for two, one-bedroom and two, two-bedroom flats on land at the rear of Nos 38-40 Bury Hill and No 41 Cemmas Court Road, Hemel Hempstead. I have considered the written representations made by you and by the Council. I have also considered those representations made directly by interested persons to the Council which have been forwarded to me. I inspected the site on 6 February 1990.
- From the representations made and from my inspection of the site and its surroundings, I have come to the conclusion that the main issue to be determined in this appeal is whether the proposal would have a harmful effect on the amenities of the occupiers of adjoining properties.
- The appeal site lies just to the west of the town centre of Hemel Hempstead on land which rises westwards from Leighton Buzzard Road. It adjoins a recently completed residential flats development approached by a new estate road off Bury Hill. The appeal relates to a proposal to build a two storey block of four flats on land which originally formed part of the rear garden of No 41 Cemmas Court Road while car parking for eight cars would be provided on a connected rectangle of land formerly part of the rear gardens of Nos 38 and 40 Bury Hill. Access to both the flats and the car park would be from the east through the car park of the adjoining flats development. A high wall acting partly as a retaining wall separates the site of the proposed flats from the existing car park at a lower level and continues southwards at the rear of the existing flats.
- The proposed building is shown to be set back up the slope a distance of about 9m from the rear face of the two storey flats to the south east, although not directly in line. Because of the height of the retaining wall I do not consider that there would be overlooking between the ground floor windows of the proposed and the existing flats. With regard to overlooking of the upper floor of the existing flats I have taken account of your statement that the view from the bedroom of the first floor unit would be oblique. However, in my opinion, the angle of the viewpoint would not be such as to prevent a clear view of the two west facing windows of the first floor northernmost flat. Because the proposed building would be so close and at a higher level I consider that the privacy of the occupiers of this existing flat would be affected to an unacceptable degree.
- Residents of properties in Bury Hill to the north west have objected to the proposal on grounds of overlooking of gardens and houses and overshadowing of gardens. There would not be windows to habitable rooms on the north west flank of 1



the proposal and I consider that the distance between the rear elevations of Nos 44 and 46 Bury Hill and the rear elevation of the proposed block would be sufficient to prevent serious overlooking of existing dwellings. I am also satisfied that the gardens of houses lying higher than the appeal site would not be seriously overlooked. However the proposed flats would be close to the rear boundary of No 42 Bury Hill and I am of the opinion that, because of the aspect, Nos 36 and 42 Bury Hill would be subject to significant and unacceptable overshadowing, the former during afternoons and the latter in the mornings.

6. I am also concerned about the effect that the car park would have on the amenities of the occupiers of the neighbouring properties. Because this area was formerly rear garden land, both Nos 36 and 42 Bury Hill would each have approximately 15m of their rear gardens flanking the car park. Although the car park would be enclosed by 1.8m close boarded fences, in my opinion the proximity of this area to the private rear gardens of these properties would give rise to noise, fumes and a level of activity which I consider would cause serious disturbance to the occupiers. I am also of the opinion that the car park would have similar detrimental effects on the occupiers of Nos 38 and 40 Bury Hill. I do not consider that the willingness of the occupants to dispose of part of their rear gardens is sufficient justification for allowing a proposal which would permanently and detrimentally affect the amenities of the occupiers of these properties.

7. I have taken account of your opinion that the car park would be likely to be used by residents of the proposed flats for longer term parking and that consequently the number of vehicle movements would probably be very small. It appears to me however that when the existing development is fully occupied, it is likely that the majority of the car spaces allocated will be in use and I would expect that residents and visitors to the existing or proposed flats would park wherever space was available. I can therefore place little weight on your contention. I have also taken account of your suggestion that a more substantial boundary treatment would reduce the impact of the proposed car park on No 36 Bury Hill but I do not consider that such a measure would be sufficient to reduce the transmission of noise and fumes to an acceptable level. I have also taken note of your comments on the parking of cars at the front of houses or within front gardens but rear gardens provide private amenity space where I consider it reasonable for residents to expect a certain degree of peace and seclusion.

8. I have also account of your references to Circular 22/80, Circular 15/84 and Planning Policy Guidance Note 3 but I consider that the protection of the amenities of adjoining owners is an interest of acknowledged importance to which the proposal would cause demonstrable harm. Furthermore, to my mind, the development of former rear garden areas does not represent, in this particular case, bringing back into use neglected or derelict land. I therefore conclude that the appeal site is not an appropriate location for the development proposed.

9. I have taken into account all the other matters raised in the written representations but find nothing so cogent or compelling as to outweigh the considerations leading to my decision.

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

I am Gentlemen
Your obedient Servant

Margaret A. Frith

MARGARET A FRITH BA DipTP MRTPI
Inspector

4/2123/88

22 NOV 1988
CERTIFICATE RELATING TO
THE OWNERSHIP OF LAND
TO WHICH A PLANNING
APPLICATION RELATES

TOWN AND COUNTRY PLANNING ACT, 1971

Certificate under section 27

CERTIFICATE A*

I hereby certify that:-

† "owner"
means a person
having a free-
hold interest or
a leasehold
interest the
unexpired term
of which was
not less than
7 years.

1. No person other than the applicant was an owner† of any part of the land to which the applica-
tion relates at the beginning of the period of 21 days before the date of the accompanying application;

*2. None of the land to which the application relates constitutes or forms part of an agricultural
holding;

or:-

*2. *I have/the applicant has given the requisite notice to every person other than *myself/himself
who, 21 days before the date of the application, was a tenant of any agricultural holding any part of
which was comprised in the land to which the application relates, viz:-

Name of tenant† Address Date of service of notice

† If you are
the sole agri-
cultural tenant
enter "None".

or

CERTIFICATE B*

I hereby certify that:-

† "owner"
means a person
having a free-
hold interest or
a leasehold
interest the
unexpired term of
of which was
not less than 7
years.

1. *I have/the applicant has given the requisite notice to all persons other than *myself/the appli-
cant who, 21 days before the date of the accompanying application, were owners† of any part of the
land to which the application relates, viz:-

Name of owner † Address Date of service of notice
MR & MRS W R SANSON 41 CEMMAES COURT ROAD 21.11.88
HENEL HEMPSTEAD
MR A S GEARY - 38 BURY HILL 21.11.88
MR & MRS ALEXANDER - 40 BURY HILL 21.11.88
HENEL HEMPSTEAD

*2. None of the land to which the application relates constitutes or forms part of an agricultural
holding;

or:-

*2. *I have/the applicant has given the requisite notice to every person other than *myself/himself
who, 21 days before the date of the application, was a tenant of any agricultural holding any part of
which was comprised in the land to which the application relates, viz:-

Name of tenant† Address Date of service of notice

† If you are
the sole agri-
cultural tenant
enter "None".

PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

C.P.O.	D.P.	D.C.	B.C.	Admin.	File
Received 22 NOV 1988					
Comments					

Signed

*On behalf of BESTMARK DEVELOPMENT LTD

Date 21.11.88

4'2123/88

22 NOV 1988

NOTICE TO BE SERVED BY APPLICANT ON OWNER OF ANY LAND NOT OWNED BY APPLICANT TO WHICH A PLANNING APPLICATION RELATES.

NOTICE No. 1

TOWN AND COUNTRY PLANNING ACT, 1971

Notice under section 27 of application for planning permission

(a) Insert address or location of proposed development

Proposed development at (a) R/O 38 E 40 BURY HILL E 41 CEMMAES COURT ROAD

(b) Insert name of Council.

TAKE NOTICE that application is being made to the (b)

DAÇORUM DISTRICT COUNCIL Council by (c)

(c) Insert name of applicant.

(d) Insert description of proposed development

for planning permission to (d) .. ERECT .. 2 NO. 2 BEDROOM FLATS ..

2 NO. 1 BEDROOM FLATS WITH ASSOCIATED PARKING.

(e) Insert date not less than 20 days later than the date on which the notice is served.

If you should wish to make representations about the application, you should make them in writing

not later than (e) .. 11. DECEMBER 1988 .. to

the Council at (f) .. CIVIC OFFICES THE MARLOWES HEMEL HEMPSTEAD HERTS

(f) Insert address of Council.

Signed .. [Signature]

*On behalf of BESTMARK DEVELOPMENTS LTD

Date .. 21. 11. 88 ..

*Delete where inappropriate.

Pla/CPS/207

PLANNING DEPARTMENT DAÇORUM DISTRICT COUNCIL					
Ref.				Ack.	
C.P.O.	D.P.	D.C.	B.C.	Admin.	File
Received		22 NOV 1988			
Comments					