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Your reference
RL/3071
Our reference
T/APP/C1950/A/90/146526/P8
Date
15 JUN 90

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR G K MacLEOD
APPLICATION NO:- S6/0652/89/OP

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Welwyn Hatfield District Council to refuse outline planning permission for the demolition of an existing house and the construction of a replacement dwelling at Spike Island, Hornbeam Lane, Essendon. I have considered the written representations made by you and by the Council and I inspected the site on 8 May 1990.

2. The appeal site is located within the Metropolitan Green Belt and, from the representations made and my inspection, I therefore consider that the main issue to be decided in this case is whether such very special circumstances exist as to justify overriding the general presumption against inappropriate development in the Green Belt and, if not, whether the development would be harmful to the objectives of national and local Green Belt policies.

3. It is Government policy, as expressed in PPG2, that any new building in a Green Belt is normally to be regarded as inappropriate development unless required for purposes, such as agriculture or forestry, which are considered to be appropriate in a rural area. The thrust of this policy is carried forward into the Approved Hertfordshire County Structure Plan 1986 Review and the draft District Plans, although emerging policies envisage a limited scope for replacement dwellings.

4. You have not suggested that the proposed dwelling is required for agricultural or any kindred purpose and it would therefore be inappropriate development in terms of prevailing Green Belt policies. Furthermore, I do not consider that the application is founded on any factors which might reasonably be regarded as very special circumstances, nor is there any evidence that the existing dwelling is not capable of habitation, being the principal test that this type of proposal is expected to satisfy under Policy GB5 of the draft District Plan, which was adopted for development control purposes in September 1989. It remains for me to consider, nonetheless, whether the development would be harmful to the objectives of Green Belt policies and, in particular, to the Green Belt purposes as identified in paragraph 4 of PPG2.

5. The appeal site is set in a hilly landscape of woodland and fields about 1½ miles from the centre of the village of Essendon. It is approached from Hornbeam Lane, an unmade road which reduces to a grassed bridleway beyond the vehicular access to your client's property. The Lane also provides access to 3 other dwellings which are grouped together some 300 m to the north-west, towards its junction with the B158 (Kentish Lane). The site itself is some 0.19 ha in area

and is occupied by the existing 2-storey detached house and double garage, located towards the south-eastern corner, together with 2 separate stable blocks and an outdoor swimming pool.

6. Your client is seeking outline planning permission only, but I note that the means of access to and the siting of the dwelling form part of the application and that the proposed dwelling would have a floorspace of 530 sq m. There is disagreement however between you and the Council as to the size of the existing dwelling, including permitted extensions, against which that figure should be compared. It is evident that the original dwelling on this site, Meadow Cottage, has been significantly altered and extended over time and you calculate that the present house has a gross floor space of 330 sq m which would be increased to 591.8 or 613.1 sq m if 2 permissions for extensions were fully implemented. I am told that the discrepancy between the figures for the size of the house as extended, is based upon whether an open verandah is taken into accont.

7. The Council argues however that the appropriate figure should be 397 sq m because part of the permitted extensions would encroach onto the adjoining bridleway and cannot therefore be legally implemented. It appears from the representations that this matter, and its possible resolution, is still in dispute, but it is not uncommon that legal impediments may exist to the implementation of a valid planning permission and, in the context of this appeal, I consider that the effect of the planning history of the site is that I am entitled to take into account not only the existing house but also the full size of the 2 extensions in question. Even if I am wrong in this respect, I am of the opinion the addition of the undisputed extension would create a dwelling sufficiently comparable in floor area to that proposed for comparisons of size not to be a significant issue in this appeal.

8. That being so, I consider that the crucial aspect of this case is whether the dwelling would harmfully compromise the Green Belt purpose which I regard as being relevant to the proposal, namely, the safeguarding of the surrounding countryside from development. In most circumstances, I would look upon even one additional dwelling in the Green Belt, however well concealed from view, as being unacceptable because such a development could be repeated too often and the face of the countryside would suffer change.

9. This appeal however, is concerned not with an additional dwelling but with a replacement dwelling of comparable size and within the curtilage of the existing house. At my inspection, it was apparent that the present building is visible to a varying extent from different viewpoints. I would also accept that its visibility may vary seasonally, according to the amount of leaf cover. Nonetheless, the footprint of the proposed dwelling would overlap the existing and such is the fall of the land that I do not consider that it would be significantly more prominent. Indeed, given the opportunity for additional planting, such as that illustrated on your drawing No 103A, in my opinion, the development would have the effect, not of encroaching into the countryside, but rather of reducing the impact of habitation in this area. It is not at all clear to me why your client would wish to incur the expense of the development when no evidence has been advanced that the existing dwelling is either unsound or inadequate but, having regard to all the circumstances of the case, I do not consider these to be material considerations.

10. In summary, therefore, I conclude that planning permission should be granted, subject to conditions. It is of paramount importance to ensure that the existing dwelling is demolished and that an approved landscaping scheme is carried out. Having regard to the sensitivity of the site, I also consider it reasonable that permitted development rights should be restricted and prior approval required of the external materials to be used. In my view however, it is not necessary, as suggested by the Council, to require that the development be carried out only in accordance with approved plans and drawings because that would follow from the terms

of the permission. Furthermore I regard the setting-out and finished floor level of the building as being a matter for building regulations rather than planning control. I have also taken account of all other matters raised in the representations but they do not alter my views on the main planning issue.

11. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant outline planning permission for the demolition of an existing house and the construction of a replacement dwelling at Spike Island, Essendon in accordance with the terms of the application (No S6/0652/89/OP) dated 11 July 1989 and the plans submitted therewith, subject to the following conditions:

1. a. approval of the details of the design and external appearance of the buildings and the landscaping of the site (hereinafter called '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 before the expiration of 3 years from the date of this letter;

2. the development hereby permitted shall be begun either before the expiration of 5 years from the date of this letter, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

3. the landscaping details required by Condition 1a above 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;

4. 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;

5. before the construction of the dwelling hereby permitted is commenced, the existing dwelling known as Spike Island and garage on the site shall be demolished and the materials removed;

6. notwithstanding the provisions of the Town and Country Planning Development Order 1988 (or any order revoking and re-enacting that Order), the provisions of Part 1, Classes A, B, C, E and F of Schedule 2 to that Order shall not apply to the dwelling hereby permitted;

7. no development shall take place until details or samples of the external materials to be used in the construction of the permitted dwelling have been approved in writing by the local planning authority.

12. 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 consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

13. 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

P ROSSON BA(Hons) Solicitor
Inspector