

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To

Mr A R Batchelor
2 Woodlands Avenue
Berkhamsted
Herts

Two storey side extension to form a separate
dwelling with parking.
at 2 Woodlands Avenue, Berkhamsted, 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 15.2.90 and received with sufficient particulars on 15.2.90 and shown on the plan(s) accompanying such application.

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

1. No turning space has been provided within the site to enable vehicles to enter and leave the site in forward gear, and this is likely to lead to vehicles reversing in or out of the access close to the junction of Woodlands Avenue with Swing Gate Lane, to the detriment of highway safety.
2. The proposed parking layout is unsatisfactory to serve two houses and is likely to give rise to unacceptable disturbance to the occupiers of both properties.
3. Having regard to the alterations in levels which would be necessary to construct the proposed parking area and the prominence of the site in general, the use of the whole of the front garden for access and car parking would be a harmful visual intrusion, adversely affecting the character of this residential area.

Dated 10th day of MAY 1990

Signed

SEE NOTES OVERLEAF

P/D.15

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 the date 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.

that there would be sufficient space available for the existing hedge to be retained and for further planting to be carried out. Although the front garden is on a slope and the laying out of the car parking area will involve some changes in level it seems to me that the alterations proposed would not materially effect the screening of the site. Bearing in mind the existing appearance of the appeal site and the parking situation in the surrounding area I do not consider that the proposed development would have any significant effect on the character and appearance of the surrounding residential area.

6. On the second issue the Council accepts that the provision of 6 spaces complies with its current Car Parking Standards, but considers that there is no turning space within the site to enable vehicles to enter and leave in forward gear. Whilst some tandem parking of vehicles would be involved I note that in relation to dwellings the Car Parking Standards indicate that double parking is acceptable. The Council's illustration of turning manoeuvres shows that there will be some difficulties for vehicles turning particularly those using parking spaces 2 and 3. I note however that the area between the rear of the spaces and the extension is about 6 m in depth. Whilst the layout is not ideal I nevertheless consider that there is sufficient space between the parking spaces and the dwellings to enable vehicles to manoeuvre and leave the site in forward gear. Since the scheme complies with the Council's Car Parking Standards and vehicles would be able to leave the site in forward gear I do not believe that the scheme would have any material effect on highway safety and congestion on Swing Gate Lane.

7. On the third issue the Council considers that the use of a single parking area for 2 households would cause undue noise and disturbance to the occupants of both the existing and the new dwelling. I accept that vehicles would have to pass close to the properties when entering or leaving the site, but the parking spaces themselves are set well back from the lounge windows. Although there would be some noise and disturbance caused by car movements at the front of the dwellings I do not consider that this would be unacceptable having regard to the relatively small number of traffic movements likely to be generated by such properties.

8. The Council is concerned that the proposal is contrary to its environmental guidelines set out in the Dacorum District Plan. Since I do not consider that the proposal would materially effect the surrounding residential area I do not believe there would be any significant conflict between the proposal and the objectives of Policy 18. The proposal is also in accordance with the Council's Policy 19 which requires the provision of parking spaces in compliance with the current adopted standards. I therefore conclude that there would not be any material conflict between the proposal and the objectives of the Development Plan.

9. The Council has suggested a number of conditions that might be imposed should I be minded to allow this appeal. Apart from the standard condition I consider that the Council's proposed highway conditions 3, 4, 5 and 8 are necessary in the interests of highway safety as amended to reflect the advice contained in Circular 1/85. I do not accept that it is necessary to impose a condition restricting permitted development rights as I do not believe that this would significantly affect residential or visual amenity. I also do not accept that the proposed conditions 6, and 7 are necessary since the Highway Authority have other powers available to control such matters. Bearing in mind the slope of the site I consider it necessary to impose a condition to ensure satisfactory drainage of surface water. I consider however that it is necessary to impose landscaping conditions in order to preserve the appearance of the area, including retention of the boundary hedge. I also consider it necessary to impose a condition relating to the use of porous surfacing materials for the parking spaces to ensure the availability of water for the retained trees and hedge.

10. I have taken account of the other matters raised in the representations but do not consider that there are any of sufficient weight to override those that have led me to my decision.

11. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the retention of a 2-storey extension to form an additional dwelling and parking on land at 2 Woodlands Avenue, Berkhamsted, in accordance with the terms of the application (No. 4/0251/90) dated 15 February 1990 subject to the following conditions:

1. the new access shall not be used until the existing access has been closed;
2. no structure or erection between 600 mm and 2.0 m above the footway level shall be placed within a 2.4 m x 2.4 m visibility splay each side of the access measured from the edge of the accessway to the back of the footway;
3. no structure or erection between 600 mm and 2.0 m above carriageway level shall be placed within sightlines of 2.4 m x 35 m in each direction from the midpoint of the accessway;
4. no dwelling shall be occupied until space has been laid out within the site in accordance with the submitted plan 58/1 for 6 vehicles to be parked and that area shall not thereafter be used for any purpose other than the parking of vehicles;
5. no dwelling shall be occupied until the parking spaces have been surfaced with a porous material in accordance with details to be submitted to and approved in writing by the local planning authority;
6. no dwelling shall be occupied until surface water drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority;
7. no dwelling shall be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping which shall include indications of all existing trees and hedgerows on the land to be retained which shall include the northern boundary hedge;
8. 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.

12. 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.

13. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the Town and Country Planning Act 1990.

I am Sir
Your obedient Servant

CW Hoare

C W HOARE LLB Solicitor
Inspector