



**Department of the Environment and
Department of Transport**

Common Services

Room 14/17

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 927

Switchboard 0272-218811

GTN 2074

CHIEF EXECUTIVE
OFFICER

25 SEP 1986

File No.

Refer to

Cleared

CPO 25/9

R Perrin Esq MRTPI
Messrs Stimpsons
14A St Albans Road
WATFORD
Herts
WD1 1RX

Your reference

RP/CAS

Our reference

T/APP/A1910/A/86/49692/P4

Date

24 SEP 86

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR GREEN AND MRS BATTCOCK
APPLICATION NO:- 4/0316/86

1. 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 the demolition of Mingala and Oaklands, Cross Oak Road, Berkhamstead, and the erection of 6 houses with access road on the site. I have considered the written representations made by you, by the Council, by the Berkhamstead Town Council, and also those made by interested persons. I inspected the site on 1 September 1986.

2. From my inspection of the site and surroundings and the representations made, it appears to me that the principal factors to be taken into account in determining this appeal are whether the site is one on which 6 houses can reasonably be accommodated, whether neighbouring properties would be seriously adversely affected by them and whether the narrow width of Cross Oak Road, the absence of footways and limitations on visibility are such that permission for these houses should be withheld in the interests of road safety.

3. Mingala and Oaklands are 2 large, older style 3-storey, semi-detached houses which also have substantial outbuildings. They are set in substantial plots so that the appeal site has an area of rather over one acre. The site is quite well screened and has a number of specimen trees which it is proposed to retain. The site has a wide frontage and has at present 2 accesses on to Cross Oak Lane. Cross Oak Lane itself is narrow at this point, being between 4.2 and 4.5 m wide (13 ft 6 ins-14 ft 6 ins). What is more, it has high hedges on each side and no footway but it widens some distance to the north and south. The accesses from Mingala and Oaklands and from several other neighbouring properties are virtually blind and must require great care when cars emerge. Cross Oak Road itself has many houses opening on to it as well as several residential roads. It also carries some through traffic feeding to and from the A41 though it appears to be used for this purpose mainly at rush hours. There are plans to widen the carriageway and provide a footpath on the opposite side of the road to the appeal site but this has low priority and may not happen for some years.

4. The appeal site lies in a residential area and according to the Dacorum District Plan, housing development is to be concentrated in Hemel Hempstead, Berkhamstead and Tring. Having regard to the various factors listed in the Plan, the proposal to build 6 houses on the site does not in itself seem excessive, and

given the screening from neighbouring houses that exists, it does not appear to me that the new houses would be likely seriously to affect them. The most important question before me therefore concerns the access to Cross Oak Road, the increased use of the road arising from the new development and road safety. It is on these issues that the concern of the Council and of objectors have concentrated.

5. As I have noted, the existing accesses to Mingala and Oaklands are narrow and blind. It is possible to provide sightlines for the new access road to about 36 m to north and south for 2.4 m back and the sightline to the south could increase to 70 m if measured to a point half a metre from the edge of the carriageway. This would entail the removal of the existing hedge and would provide visibility far better than that from the existing accesses. What is more, the effect of an access on these lines would be virtually to widen Cross Oak Road at this point which would be likely to facilitate the passing of vehicles and could be helpful to pedestrians. Against these benefits, however, the extra traffic arising from 4 extra houses has to be set. The submission by the Cross Oak Residents' Association has listed 72 houses built in the last 10 years or still being built south of Greenway and, presumably, likely to use this stretch of Cross Oak Road. There is additionally traffic associated with other existing houses on Cross Oak Road and the through traffic to which the Association refers. In these circumstances, I am not satisfied that the addition of traffic associated with 4 additional houses is likely to be very significant and given the improvement to the access to the site and to the road, it appears to me to be unlikely that there would be any detriment to road safety if the houses and the access road were built.

6. In considering your clients' appeal I have borne in mind that in Circular 14/85, the Secretary of State reiterated that there is always a presumption in favour of allowing applications for development, having regard to all material considerations, unless that development would cause demonstrable harm to interests of acknowledged importance. In my view, the effects of the proposed development on neighbouring properties and on the character of the area as well as on road safety are such interests but I am not satisfied that the erection of 6 houses here would cause demonstrable harm to them. I have, therefore, decided that your clients' appeal should be allowed.

7. I have considered all the other matters raised in the written representations but find nothing of sufficient weight to affect my decision.

8. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the demolition of Mingala and Oaklands, Cross Oak Road, Berkhamstead, and the erection of 6 detached houses with access road in accordance with the terms of the application (No 4/0316/86) dated 7 March 1986 and the plans submitted therewith, 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;

3. details submitted in accordance with condition 1 shall include a survey of the site showing existing natural features, trees and hedges and proposed boundary treatment;

4. no trees or hedges existing on the site at the date of this permission shall be wilfully damaged or destroyed without the previous written consent of the local planning authority and any trees or hedges removed or damaged without such consent shall be replaced as may be agreed with the local planning authority.

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 Sir

Your obedient Servant

W. C. Knox

W C KNOX BA
Inspector

Department of the Environment and Department of Transport

Common Services

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B. J. B. B. B.
4/28/86

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 - 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

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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 Sir

Your obedient Servant

W. C. Knox

W C KNOX BA
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Mr M E M Green Mingala Stimpsons cruicshank
A M Battock Oaklands 14a St Albans Road
Cross Oak Road Watford
Berkhamsted

..... Six dwellings and access. (Outline)
.....
at Mingala and Oaklands, Cross Oak 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 7. March 1986 and received with sufficient particulars on 10. March 1986 and shown on the plan(s) accompanying such application.

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

Due to the narrow width of Cross Oak Road, absence of footways and limited visibility available, the construction of the proposed access road would be likely to be prejudicial to road safety.

Dated 24 day of April 19 .. 86.

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 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.