

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mr. Dryden,  
Shepherds Cottage,  
9 St. Margarets,  
Great Gaddesden,  
Herts.

Carblyn & Gerald Bushby,  
10 Torrington Road,  
Berkhamsted,  
Herts.

..... Two storey and first floor extension and  
..... alterations  
.....  
at Shepherds Cottage, 9 St. Margarets,  
.....  
..... Great Gaddesden, 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 3rd March, 1983 ..... and received with sufficient particulars on 7th March, 1983 ..... 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 site is within the Chilterns Area of Outstanding Natural Beauty on the Approved County Development Plan and in an area referred to in the Approved County Structure Plan (1979) wherein permission will only be given for use of land, the construction of new buildings, changes of use or extension of existing buildings for agricultural or other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. Insufficient need has been proven for an extension of the size proposed and the development is therefore unacceptable in the terms of this policy.

Dated 21st ..... day of July, 19 83 ..

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.



# Departments of the Environment and Transport

Eastern Regional Office

Charles House 375 Kensington High Street London W14 8QH

9315

CHIEF EXECUTIVE

OFFICER

15 MAY 1984

PLANNING DEPARTMENT					
DACORUM DISTRICT COUNCIL					
Ref. Telephone 01-603 3444 ext 73					
C.P.O.	D.P.	D.C.	B.C.	Admin.	File
Received			15 MAY 1984		
Comments			Our reference		
			Date		

Ref.

For to

dated

Carolyn and Gerald Bushby  
Architects  
10 Torrington Road  
Berkhamstead  
Herts

Your reference

Our reference

Date

(a) APP/A1910/A/83/007437  
(b) APP/A1910/B/83/005274

- 9 MAY 1984

Sir and Madam

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36 AND SCHEDULE 11

APPEALS BY MR W S DRYDEN

APPLICATION NOS: (a) 1/0325/83 (b) 1/0326/83LB

1. I am directed by the Secretary of State for the Environment to refer to your client's appeals:

(a) under Section 36 of the Town and Country Planning Act 1971 against the decision of Dacorum District Council to refuse planning permission for the erection of a 2-storey and first floor extension and alterations at Shepherds Cottage, 9 St Margarets, Great Gaddesden, Hertfordshire; and

(b) under paragraph 9 of Schedule 11 to the Act against the failure of the same Council to decide within the prescribed period an application for listed building consent to carry out the above works.

2. The written representations made in support of the appeals and those of the Council and third parties have been considered. An officer of the Department has visited the premises.

## THE APPEAL PREMISES AND SURROUNDINGS

3. The appeal premises are situated in the middle of the hamlet of St Margarets, which is in the open countryside about 4 miles north-west of the town of Hemel Hempstead. The premises comprise the south-eastern one of a pair of semi-detached 2-storey houses at the back of which has been built a long single-storey extension. The front part of the house is the original, a half-timbered structure with brick infilling and with the joists projecting on the north-eastern and south-eastern sides to give a slightly overhanging first floor. The steeply pitched roof is tile-covered. The extension at the back was built in 3 stages, and comprises two single-storey buildings linked to the main house together with a detached garage at the rear. The north-western house, forming the other one of the pair of semi-detached houses (No 8) has not been extended at the back. It seems that this house and the appeal premises were once one dwelling and they were subdivided at some time to form 2 dwellings. In doing this the south-easternmost bedroom of No 8 was formed over part of the lounge of the appeal premises. It is known as a flying freehold.

4. St Margarets consists of a row of dwellings on the south-western side of a lane, and the appeal premises are in the middle of the row. These dwellings are set behind long front gardens and their back gardens are shorter. The appeal premises are the only dwellings in the row to have an extension the length of its

back garden. Immediately to the south-east of the appeal premises (and abutting the south-eastern flank wall of the original part of the premises) is an access road from the lane to the backs of the row, where it seems that each dwelling has a garage or shed. To the north-west of the north-western of these dwellings, but separated therefrom by a public footpath from the lane, is a school which with its playing field at the back occupies a large amount of land. Most of the school buildings appear to be long, single-storey timber structures. The dwellings in St Margarets are of different sizes, styles and ages; none has extensions as large as those which have been permitted at the appeal premises.

#### REPRESENTATIONS

5. You submit that your client wishes to provide adequate accommodation for his family including a separate bedroom for each of his four children who, it is alleged, are all permanently resident at home. You were not asked to justify a need before the application went to committee and you are concerned that the Council should now be raising this as an issue. You consider that the existing mansard roofed extension is out of character with the area and relates poorly to the original house: the flat roof has also proved a continual source of moisture penetration problems. The proposed scheme merely replaces a mansard roof with a pitched roof, which is far more in keeping with the original house. It will also improve a somewhat dilapidated rear garden area. The Council have raised no objections to the design or the relationship of the proposed extension to the existing house and you consider that they have presented opposing views as to whether the creation of a visually separate part of the property would be acceptable. The increased volume is small and most of the accommodation required is obtained by better use of the existing structure. The scheme is identical in built form to that which the Council have said they will accept, and in January 1984 they granted planning permission for a single storey extension with a mansard roof. There will be no loss of privacy or amenity to neighbouring properties: in particular the extension will have little effect on the view from the rear bedroom window at No. 8 St Margarets, and it should be noted that the primary bedroom window in that house faces south. The proposal will not be visible from the adopted highway. You state that two-storey extensions have been approved and constructed nearby and that a two-storey extension has recently been allowed at No. 10 St Margarets, increasing the volume of that property by 80% with no requirement to justify need. As the Council's guidelines for dealing with applications for extensions were not adopted until 3 months after planning permission was refused, they are not, in your view, applicable to your client's situation. As regards objections from local residents, you point out that they are concerned mainly with a disputed right of way which is unrelated to the application. The side wall of the extension is proposed in the same position as the existing wall that defines the width of access and the existing width will remain unchanged.

6. The Council submit that the original floorspace of the property has been increased by 112% as a result of the extensions already built and that the present proposal, which involves a new floorspace of 800 sq ft, would bring this figure up to 180%. In their view, the visual impact of these substantial extensions is similar to that of a new dwelling in an area where green belt policies apply. The Council have recently adopted guidelines for dealing with planning applications for extensions to dwellings in such areas, and the floorspace of any new extension will be considered as a percentage of the original dwelling. For a property the size of Shepherds Cottage, an increase of 25% in original floorspace is reasonable. The property has been extended well in advance of this figure and the present proposal on its own involves a figure outside the suggested guidelines. The Council consider that the guidelines are relevant in this case, since they apply to existing and established policies in the District Plan which refer to all developments, including extensions to existing dwellings, and they enable the Council to determine what is acceptable in areas subject to green belt policy. Exceptions to the policy must be justified, hence the concern shown over the size of Mr Dryden's family. Other extensions approved and constructed nearby have involved a substantially smaller increase in floorspace in

both percentage and numerical terms than that already permitted at the appeal site. Small extensions of a reasonable size are in principle considered acceptable provided there have been no previous extensions to the dwelling; the need for such extensions does not have to be proven. In considering the application for the proposed extension at Shepherds Cottage, the Council were sympathetic to the need for the accommodation, but this was not found to be as great as first believed, and in reconsidering the application, it was decided that a less ambitious scheme incorporating one additional bedroom would be more acceptable in terms of green belt policy restrictions. On 12 January 1984 planning permission was granted for a single storey extension which increases the present number of bedrooms to five and equates with the ground floor extension shown on the appeal proposal. The Council consider that the proposed two-storey extension would create a visually separate part of the property to the rear of the site which would be seen from the surrounding Chilterns Area of Outstanding Natural Beauty and would hence be unacceptable in terms of District Plan policy for AONBs which seeks to preserve the landscape and restrict new development which would have a visual impact on the area. Although the creation of a visually separate unit may be acceptable in design terms, determination of the listed building application and the planning application involves different considerations. The appeal proposal is not similar to that now approved which has no void to provide additional bedroom space. The Council point out that the submitted plans do not correctly indicate the wall alongside the private right of way: in particular the far end of the wall from the house is closer to the existing extension than is indicated on the survey drawings. If the extension were to be built beyond this wall it would project into and block the private right of way along the side of the property. Listed building consent has not been granted, but the Council do not wish to contest that appeal because the proposal would neither compete with nor contribute to the listed building.

7. Objections to the proposal were received from 5 people living in St Margarets. They question the need for an extension of the size proposed which they say would be dominant and out of context with the listed building and the area in general. It is claimed that the proposal will result in loss of privacy, light and amenity and will affect the view from other dwellings. Fears are expressed about the possible reduction in the width of the right of way between Nos. 9 and 10, which affords the sole means of access to garages and to the communal cesspit. There was also opposition to the proposal from the Hertfordshire Society and from Nettleden-with-Potten End Parish Council.

#### REASONS FOR DECISION

8. It is considered that the existing extension which is now covered with an ill-proportioned partly pitched and partly flat roof, detracts from the appearance of the original, and listed, part of the premises, and it is accepted that the proposed extension with its pitched roofs and simple design would represent an improvement. This being so, there would appear to be no grounds for withholding listed building consent in this case. However, in considering whether planning permission should be granted, the possible improvement in the appearance of the rear of the premises has to be balanced against the restraint policies applying in this area which lies within an Area of Outstanding Natural Beauty. These policies contain a presumption against development other than in exceptional circumstances, and it is therefore necessary to consider whether the circumstances of this particular case are such that an exception would be justified.

9. It is not considered that the proposal would materially affect the daylighting to the bedroom of No. 8 St Margarets since it would be too far away. Neither would it be particularly conspicuous from that room because the window is near to the floor and it is not very high, and all that is seen is a part of the flat roof nearest to the original house. The extension is also unlikely to appear more visually intrusive than the existing buildings when seen from other viewpoints. At the same

time, however, the proposal increases the volume of the existing extension by putting a pitched roof over the back part, thus making the roof space available for two bedrooms and a w.c. compartment. It also increases the area of built-on land within the curtilage of the appeal premises by the erection of a utility room, although it is recognised that the recently allowed single-storey extension will have the same effect. Whilst this increase in area is not substantial, it is considered reasonable to have regard to the fact that the original property has already been considerably extended since 1968 and to a far greater extent than any of its neighbours. Although the Council's guidelines for dealing with extensions were not introduced until after your client's application had been refused, they do not affect the basic restraint policies in the Structure and District Plans, and it is considered that very substantial justification is needed to increase the size of an extension which is already larger than the original dwelling.

10. There would appear to be two main arguments to examine in considering whether an exception should be made to the restraint policies, namely the effect on the listed building, and your client's personal circumstances. On the first point, it has already been concluded that the new extension would be an improvement in design terms, but it is not considered that the present extension detracts from the listed building to such an extent as to justify its replacement with something larger, or that the structure of the listed building itself will be at risk if the existing mansard roofed extension remains. On the second point, no reason is seen why a local authority should not require to be satisfied about the personal need for extending a dwelling which already has 4 bedrooms. In considering arguments of a personal kind, it has to be borne in mind that the development will remain long after the personal circumstances of the applicant have ceased to be material. In this case, on the basis of the evidence submitted, it is not accepted that there is an over-riding need for the additional accommodation proposed in the application. Such need as there is appears capable of being met in the single-storey extension for which planning permission has recently been granted. Careful consideration has been given to all the arguments submitted in favour of the Section 36 appeal but, for the reasons given above, it has been concluded that there is insufficient justification in this instance for making an exception to the restraint policies, and that planning permission should not be granted.

#### FORMAL DECISION

11. The Secretary of State hereby dismisses appeal (a) and allows appeal (b). He hereby grants listed building consent for the erection of a 2-storey and first floor extension and alterations at Shepherds Cottage, 9 St Margarets, Great Gaddesden, Hertfordshire in accordance with application no. 4/0326/83LB dated 3 March 1983 and with drawing no. 832/3, subject to the following conditions:

1. The works hereby permitted shall be begun not later than 5 years from the date of this letter.
2. Before the works hereby permitted commence, details of materials to be used externally shall be submitted to and approved by the local planning authority, and the works shall be carried out in the materials so approved.

12. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

13. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Sections 55 and 56 of the Town and Country Planning Act 1971.

I am Sir and Madam  
Your obedient Servant

MISS A GERRY

Authorised by the Secretary of State to sign in that behalf