

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mr and Mrs M Kinsella
Four Oaks
17 Tring Road
Northchurch

P J Fountaine
27 Castle Street
Berkhamsted
Herts

.....Three dwellings (Outline).....
.....
at...Four Oaks, Tring Road, Northchurch.....
.....

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 dated8 February 1988..... and received with sufficient particulars on1 March 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 proposal represents an undesirable form of backland development which would be served by a long private means of vehicular access abutting the rear gardens of dwellings located within Lyme Avenue. Vehicular movements associated with the access would be likely to be detrimental to the amenity of adjoining dwellings by reason of noise and general disturbance.
2. The local planning authority is not satisfied that there would be an adequate degree of privacy between dwellings located on the proposed plots and between such dwellings and the surrounding residential development.
3. Additional vehicular turning movements onto the A.41 would be detrimental to highway safety.
4. The formation of a new road junction in close proximity to an existing road junction would be prejudicial to highway safety.

Dated25th..... day ofMay..... 19 88

Cont'd over

Signed.....

Chief Planning Officer

SEE NOTES OVERLEAF

P/D.15

5. Visibility from the junction is substandard for the speed of traffic on this length of road.

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.



**Department of the Environment and
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CHIEF EXECUTIVE OFFICER	
6 DEC 1988	
File No.
Refer to	CPO
Cleared	6/12

Your reference

Our reference

T/APP/A1910/A/88/97792/P4

Date

7 58 53 82

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR AND MRS KINSELLA
APPLICATION NO: 4/0389/88

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. The appeal is against the decision of the Dacorum Borough Council to refuse outline planning permission for 3 dwellings at "Four Oaks", 17 Tring Road, Northchurch. I have considered the written representations made by you, the Council, Northchurch Parish Council and interested persons. I inspected the site on 31 October 1988. A drawing showing a layout of the plots and access way was sent to the Council.
2. From my inspection of the site and surroundings and consideration of the representations made it seems to me that the 2 main issues to be determined are:-
 - i. whether the proposal would have an adverse effect on the residential amenities of the occupiers of nearby dwellings; and
 - ii. whether the proposal would form an unacceptable hazard to road users on the A41.
3. "Four Oaks" is on the southern side of Tring Road (A41) in a ribbon of development on the western fringe of Northchurch. The A41 to the front of the appeal has double lines in the centre of the road indicating a hazard resulting from a bend in the road combined with a sharp rise in the carriageway to the west, and there is a speed restriction sign a little to the east. Lyme Avenue enters Tring Road nearby and the development on its western side shares a boundary with the appeal site. "Four Oaks" is in an elevated position above the A41 from which it is separated by a grass bank, and the appeal site slopes upwards in a southerly direction.
4. The appeal site is within the urban area of Berkhamstead where the Local and Structure Plan policies state a presumption for residential development, subject to consideration of traffic conditions or any adverse effect on nearby developments.
5. Your layout drawing shows the considerable alterations to the grass bank bordering the A41 that would be necessary to improve sightlines, and I am concerned regarding the speed and restricted visibility of traffic approaching from the west. Whilst it is possible to see traffic approaching before they reach the brow of the hill, visibility for their drivers however must be limited so that an intensification of use of the access to "Four Oaks" would increase the danger to road users. The proximity of the proposed private drive to Lyme Avenue, in my opinion, would be a matter of considerable concern on a busy road where comparatively fast speeds have been recorded.

6. On my visit I viewed the cul-de-sac nearby, Birch Road, with its restricted sightlines where development has been allowed in the past. However it seems to me that the case against the access way to the appeal site is so overwhelming that to allow it because locations elsewhere are less than satisfactory, would be quite wrong.

7. The long access way to the proposed 3 dwellings is shown adjacent to the rear boundaries of dwellings in Lyme Avenue and, in my opinion, there would be a diminution of the amenities enjoyed by their occupiers resulting from noise caused by cars, as well as general domestic activities. It seems to me however with regard to privacy a satisfactory degree could be maintained by existing hedges and new fences where appropriate, even allowing for the variation in levels on the site, nevertheless because of the disturbance to occupiers of nearby dwellings, in my opinion the proposal has to be considered unneighbourly.

8. The Government wishes full use to be made of urban land in appropriate cases to compliment the restrictive rural policies beyond the limits of the built up areas, but in this instance because of the hazard that in my opinion would be caused to road users on the A41, together with the disturbance likely to be occasioned to occupiers of dwellings nearby, the proposal does not form an appropriate instance.

9. I have come to the conclusion therefore that there are sound and clear cut planning objections to the proposal on both main issues, outweighing the presumption in favour of the development, and your client's appeal should not succeed.

10. I have taken into account all the matters raised in the representations but do not find them of such strength as to affect my decision.

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

I am Sir
Your obedient Servant


T R W ROBERTS RIBA DipTP MRTPI
Inspector