

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF **DACORDM**

IN THE COUNTY OF HERTFORD

To Mr. K. Kelly,
395, Barnacres Road,
Hemel Hempstead

One dwelling - OUTLINE

at Rear of 72 Ellesmere 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
..... 3rd May, 1978 and received with sufficient particulars on
..... 5th May, 1978 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 proposed site is inadequate in size to accommodate satisfactorily an additional dwelling.
2. The proposed development would have an adverse effect upon the visual and general amenities of the area and of adjoining and nearby residential property in particular.

Dated 30th day of May 19 78

Signed..... 

Designation ... **Director of Technical Services**

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, Whitehall, London, S.W.1.) 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.

C/47/9.10



Department of the Environment

Room 1309

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 865
Switchboard 0272-218311

DTS.

Noted at DCC 26/10

Your reference

Kevin Kelly Esq
395 Barnacres Road
HEMEL HEMPSTEAD
Herts

Our reference

T/APP/5252/A/78/05736/G9

Date

18 OCT 1978

Sir

009662

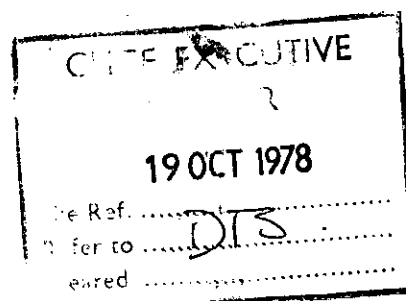
TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO:- 4/0570/78

1. I refer to your appeal, which I have been appointed to determine, against the decision of the Lacorum District Council to refuse planning permission for the erection of a 2 bedroom house at the rear of 72 Ellesmere Road, Berkhamstead. I have considered the written representations made by you and by the council and also those made by interested persons. I inspected the site on 3 October 1978.
2. The question to be determined is whether there is room for this house and car parking space, so that the people living in the new house will have enough room out of doors and a proper degree of privacy without substantially detracting from the amenities of others living nearby.
3. The first point that was immediately apparent was the effect that the new house would have on No 155 Ivy House Lane to the west. No 155 is not built as a terraced house. Its kitchen window faces east as does its back door and upstairs bedroom; the back sitting room and another upstairs bedroom face north but they would also find the bulk of the new house very oppressive; there would be serious loss of daylight to the side and rear windows, and the back premises of No 155 would be boxed in and overlooked. While this alone would constitute sufficient warrant for the Council's action in withholding planning permission, your proposals would have the further effect of reducing the amenity space of No 72, to an unacceptably small plot and there would be further loss of privacy and overlooking between the new house and Nos 72 and to a somewhat less extent between the new house and Nos 71 and 73.
4. You have drawn comparisons between your proposals and other developments nearby but the proposals have to be considered on their own merits and by today's standards. I have taken account of all the points made in your grounds of appeal, but for the reasons summarised above have to conclude that if the new house were to be built, the people living in it and the neighbours to the north and west would not be able to enjoy an acceptable standard of amenities.

5. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss your appeal.

I am Sir
Your obedient Servant

M. Kisch
J M KISCH CMG MA
Inspector



Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case may be, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.