

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Cleanhalt Limited
Yardleys Farm
Pitstone Green
Nr Leighton Buzzard

Lane Fox
15 half Moon Street
London

Vehicular access

at Northchurch Cottages, Northchurch Common,
Nr 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 May 1987 and received with sufficient particulars on 14 May 1987 and shown on the plan(s) accompanying such application.

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

In the opinion of the local planning authority the proposed development would be likely to prove injurious to the character and appearance of the area which is shown on the Dacorum District Plan as a site of Natural History interest.

Dated 18th day of June 19 .. 87 ..

Signed

W. B. B. B. B.

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.



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Department of Transport**
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1/108
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PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL					
Ref.			Ask.		
C.P.O.	D.P.	D.C.	B.C.	Admin.	File

Your reference
MAEC/PL/CIR/B387
Our reference
T/APP/A1910/A/81406/P3

F-4 MAY 88

Received - 9 MAY 1988

24313

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY CLEANHALL LTD
APPLICATION NO: 4/0712/87

Comments

**CHIEF EXECUTIVE
OFFICER**

6 MAY 1988

File for.....
Refer to.....
Cleared.....

1. I have been appointed by the Secretary of State for the Environment to determine the above appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the formation of a means of vehicular access to Northchurch Cottages, Northchurch Common, Berkhamsted. I have considered the written representations made by you and by the Council. I inspected the site on 1 March 1988, but delayed writing this letter until details came to hand of permission reference A/1914/87 dated 4 February 1988 concerning Northchurch Cottages. I have taken specific account of your comments thereon dated 14 March 1988.

2. I start by considering your view that planning permission is not required for the proposed development. From the terms of the application now under appeal, I am satisfied that your client proposes the execution of an engineering operation which is development within the meaning of Section 22(1) of the Town and Country Planning Act 1971. However it seems to me that it is not development permitted by the terms of Article 3 and Schedule 1 Class II(2) of the Town and Country Planning (General Development) Orders 1977-1987. That is because the formation, laying out and construction of this new means of access to a non-classified highway is not stated to be required in connection with development permitted by Article 3 and Schedule 1 to the GDO (other than under Class II(2)). Accordingly I propose to determine the appeal.

3. From my site inspection and from the written representations, I find that the main issue in this appeal is whether the proposed development would cause undue harm to the aim of conserving Northchurch Common, and if so whether there is any mitigating factor sufficient to outweigh that harm.

4. Northchurch Cottages were formerly farm cottages which have recently been converted into a single house. The present access route to this house is through the farmyard of Northchurch Farm. Going with the house is land whose southern boundary abuts woodland in the control of the National Trust. Within the woodland is "Byway Open to All Traffic 39" (BOAT 39) which is aligned approximately parallel to, and about 60 ft (18m) from that boundary. This BOAT is not hard-surfaced and appears as a narrow winding woodland path showing some evidence of recent use as a bridleway.

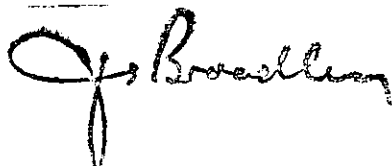
5. The adopted Dacorum District Plan shows that the woodland is within Northchurch Common which is area described as a site of Natural History Interest. Thus I assess that your client proposes development within an environmentally very sensitive area. If the proposed access is to be constructed, the Council suggest (and you appear to accept) that it would be hardcore surfaced. Notwithstanding that neither the National Trust, nor the Nature Conservancy Council appear to object to your client's proposal, I take the view that as a matter of degree, a driveway of this type would be visually very intrusive into its woodland surroundings and this would cause undue harm to the aim of conserving Northchurch Common which is a site of Natural History Interest. Accordingly, I shall continue by looking at the second part of the main issue.

6. I accept as reasonable your view that in the interests of safety, access to Northchurch Cottages should no longer be through the farmyard. But there is an approved alternative. Permission reference 4/1914/87 dated 4 February 1988 appears to include approval to the formation of a driveway along, and just outside the boundary of the woodland. I accept that the construction of this driveway would lead to the felling of some trees, but realise that this is a matter which would have been considered when the decision was taken to grant permission 4/1914/87. In my view, implementation of this part of that permission would obviate the need both for access through the farmyard, and for access via BOAT 39. In the circumstances, I conclude that there is no mitigating factor sufficient to outweigh the harm identified in paragraph 5 above.

7. I have taken account of all the other matters raised in the written representations, but find none sufficient to alter my decision that this appeal should fail.

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

I am Gentlemen
Your obedient Servant



J D BROADLEY BSc MEng CEng MICE MStructE
Inspector