

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To

P.K. Brooks, Esq.,
 61 Kings Road,
 Berkhamsted,
 Herts.

R.W. Smith, Esq. Dip.TP.FRICS.MIAS,
 14 Woodland Close,
 Borener,
 Hemel Hempstead, Herts.

Dwelling and Garage - Outline

at 61 Kings Road, Berkhamsted, 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 16th July 1982 and received with sufficient particulars on 20th July 1982 and shown on the plan(s) accompanying such application.

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

1. Access to the proposed development is inadequate and unsuitable for the additional traffic which would be generated.
2. The erection of a dwelling as proposed would be an undesirable form of development taking no account of the layout of surrounding residential properties.

Dated 8th day of September 1982

Signed..... *W. B. Marshall*

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.



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Department of Transport**

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CHIEF EXECUTIVE OFFICER 10 FEB 1983		Ref. C.P.O. 10 FEB 1983	
Sir TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9 APPEAL BY MR P K BROOKS APPLICATION NO:- 4/0899/82		RECEIVED 10 FEB 1983 Comments	

*RETURN TO MB
FOR COMMITTEE
REPORT*

*21 Mar 83
4/399/82*

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse outline planning permission for a dwelling and garage at 61 Kings Road, Berkhamsted, Herts.

2. I have considered the written representations made by you and by the Council and also those made by other interested persons and I inspected the site and its surroundings on Monday 20 December 1982 and as a result have come to the conclusion that the main issues are firstly whether the location of the proposed dwelling on backland with a shared access drive would be acceptable, and secondly whether the junction of the access drive with Kings Road would be satisfactory.

3. On the first issue you contended on behalf of your client that the policies quoted by the Council were open to wide interpretation and had not been consistently applied. You referred to various dwellings near to the appeal site which had been permitted either on backland, or as frontage development which forced properties at the rear into a backland situation. Each case had to be judged on its merits and your client's dwelling could be sited so as to have no adverse effect on the amenities of adjoining residential properties. You accepted that comprehensive development of backland was appropriate in some cases, but the appeal proposal was for an individual site where such a policy could not reasonably be applied.

4. The Council on the other hand maintained that their Local Plan policies set out the matters affecting new residential development which included close attention to the location of, and compatibility with, adjacent development, benefits to the local community and servicing arrangements. Their approach to backland development was based on comprehensive schemes that would enable high standard access roads and adequate environmental standards to be provided. There was great pressure for residential development in the area, and although need, and the optimum use of land had to be taken into account, this did not mean that every piece of land surplus to the owner's requirements should be developed. The appeal proposal took no account of the layout of surrounding residential properties and if permitted would set a dangerous precedent for other sensitive areas.

5. Regarding the access you argued that substantial improvements were proposed to its width which would more than compensate for the minor increase in the number of vehicles generated by one additional dwelling, and further improvements could be

effected on the whole length of the road if necessary. Large vehicles had used the access in the past, and it would be easier for them to do so in the future, and there would be room for vehicles to pass. Although the "carry distance" for refuse collection mentioned by the Council was exceeded it was only a recommendation, and, was exceeded elsewhere in the locality. The normal sight-line requirements at the junction of the access drive with Kings Road could not be fully met, but again this was the case with the vast majority of accesses on to Kings Road in the vicinity.

6. The Council on the other hand maintained that the narrow access drive was inadequate to serve both the existing and the proposed dwelling, particularly for service and emergency vehicles and the "carry distance" would be about 4 times the maximum recommended for refuse collection. Adequate sight-lines could not be achieved within land under your client's control so that turning movements into and out of the drive would be impeded. Since Kings Road (A416) carried heavy traffic between Berkhamsted and Chesham and the road twisted downhill towards Berkhamsted Town Centre, turning movements onto the road were already hazardous in places, and it was probable that Kings Road would be even busier in the future, because a junction was planned between it and the proposed Berkhamsted by-pass south of the town.

7. I have noted your references to frontage and backland developments permitted nearby in the past, but as you suggested each site has to be judged on its merit. The appeal proposal would share a very long access drive and substandard road junction with No 61 Kings Road, which is itself in a backland situation. There is no evidence of any comprehensive scheme for the area, which might include the appeal dwelling, even though there appeared to me to be a number of very large gardens, in the immediate vicinity, parts of which might become available for development in the future. I therefore formed the opinion that your client's proposal would conflict with the Council's policies restricting residential development on backland sites to that based on comprehensive schemes with high standard access roads.

8. You accepted that the sight-lines available at the junction of the access drive with Kings Road would be substandard even with the proposed improvements. My own observations confirmed this, and visibility for vehicles turning out from this junction appeared to me to be so poor at present that it constitutes a hazard to road safety which would be increased if a further dwelling were permitted. I accept that there are other substandard accesses nearby, but I do not consider that these justify further intensification of the appeal access, which would make matters worse. Moreover the Council have explained that traffic on Kings Road may increase in the future and it appears likely that most service vehicles will attempt to park on the road rather than negotiate the access drive, so that these parked vehicles may cause an additional hazard.

9. I have therefore come to the overall conclusion that these are clear-cut reasons for refusal, in line with the advice given in Circular 22/80 which you mentioned, because the proposal would conflict with the Council's policies for backland development based on comprehensive schemes, with high standard access roads, and would have an unsatisfactory substandard access on to Kings Road.

10. I have taken into account all the other matters raised in the written representations including the problem of maintaining large gardens but I am of the opinion that they are outweighed by the considerations which have led me to 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

P.R. Gibbs

P R GIBBS MA AADip RIBA
Inspector