

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Alath Construction Ltd
24 Lincoln Court
Berkhamsted

A E King
Wetherby House
The Hemmings
Shootersway
Berkhamsted

Five houses and estate road

at Halcyon/Wayfarers, Shootersway Lane, 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 12th July 1985 and received with sufficient particulars on 12th July 1985 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 local road network serving the site is considered to be inadequate to accommodate the traffic generated by the proposed development.
- (2) The proposals would have an adverse affect on adjoining properties.
- (3) The development would detract from the character of the area.

Dated 5th day of September 1985.

Signed



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.



Department of the Environment and Department of Transport

Common Services

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CHIEF EXECUTIVE
OFFICER

7 JUL 1986

 File Ref.
 Refer to CPO 7/7
 Cleared

Mr Andrew King BA(Hons) BPI MRTPI
 Chartered Town Planner and
 Architectural Consultant
 Wetherby House
 The Hemmings
 Shootersway
 BERKHAMSTED Herts

[Handwritten signatures and initials]
 3) DANN
 4) DANN

Your reference

Our reference				
T/APP/A1910/A/85/038941/P2				
Ref Date		Ack.		
C.P.O.	D 53 JUL 86	B.C.	Admin.	File
Received - 8 JUL 1986				
Comments				

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY ALATH CONSTRUCTION LTD
 APPLICATION NO:- 4/0907/85

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the construction of 5 detached houses and an estate road on land at "Halcyon" and "Wayfarers", Shootersway Lane, Berkhamsted. I held a local inquiry into the appeal on 23 April 1986.
2. From my inspection of the appeal site and the surrounding area and from the representations made to me I consider that the main issues in this case are; first, whether the proposed development would harm the appearance and character of Shootersway Lane; secondly, whether traffic generated by the development would cause a significant inconvenience to highway users in the locality and thirdly, whether the development would be harmful to the residential amenity of the occupiers of neighbouring dwellings.
3. The appeal site occupies nearly 1.5 acres of fairly flat land which currently comprises the entire site of "Halcyon" and most of the rear garden of the adjoining large dwelling "Wayfarers". It is situated at the southern end of Shootersway Lane in a low density residential area near the outskirts of West Berkhamsted. The proposal is to demolish "Halcyon", a large flat-roofed bungalow of unorthodox design and to construct on the site 5 large detached houses with double garages served by a short cul-de-sac. Although most of this development would occupy backland, behind the detached houses on Winston Gardens to the east, it would principally relate to Shootersway Lane and hence it is in relation to this lane that I have assessed the appearance and character of the proposals.
4. Having an informally laid-out carriageway without footpaths and with mature trees growing in its meandering grass verges Shootersway Lane has a semi-rural charm which sets it apart from the more traditional urban appearance of other residential streets in the locality. The dwellings on the Lane, which are generally large and to various designs and which are loosely arranged on usually generous and sometimes substantial sites add to its attractive, undisciplined and spacious character. I can well understand the concern expressed by many of the local residents that it should not be spoilt. But this Lane is no stranger to change; over most of its length there are numerous examples of infilling and backland development, many of which are recent, all resulting from the subdivision of the previously very large gardens. It seems to me therefore that the Lane is at an advanced stage of transition from a very low density, which may very well have had the flavour of a country land, to a more moderate density which

though relatively spacious cannot justifiably be regarded as particularly exceptional. The southern end of the Lane comprises the one remaining pocket of very low density housing in which gardens are of the order of one acre. In view of the new development which has taken place nearby such as the neo-Georgian houses at Shooterscroft which link with the urban character of Greenway and the relatively closely-spaced dwellings at Torwood Close and St Wilfreds, all of which have contributed to the changed character of the Lane, I consider that this pocket of housing cannot be justifiably protected from suitable sub-divisions of a similar type.

5. Since the proposal represents a density of about 3.5 dwellings per acre, which is similar to, if not less than, the density of recent infill developments on the Lane and is laid out with good space allowances between the variously designed buildings in a landscaped setting, all of which matters are material considerations relevant to this site, I consider that these proposals will adequately respect the changing character and appearance of Shootersway Lane. Moreover, since the spacing of buildings on the frontage of this part of the Lane will be broadly unchanged, its especially open appearance will not be harmed and I consider the replacement of "Halcyon" by the proposed well-designed dwelling to be an enhancement of the locality. A number of representations were made concerning the natural vegetation and wildlife on the Lane which makes it attractive to residents and walkers but I do not think that the proposed houses, situated principally behind the frontage will have an appreciable effect on this aspect of the Lane's character, neither, since they would be situated on relatively flat land, would these houses intrude significantly onto the skyline. I therefore consider on balance that the proposals, if implemented would not seriously harm the character and appearance of Shootersway Lane.

6. From the representations there is a widespread concern amongst local residents, which is supported by the council but not the highway authority, that vehicle movements connected with the proposed development would unacceptably add to the growing problem of traffic congestion in the locality. I appreciate that car ownership levels associated with these large houses, in common with others in the locality, are likely to be relatively high and that consequently a predicted figure of 0.6 and 0.8 vehicle movements per dwelling in the peak hour, which is based on national trends, may be an underestimation. However, I consider that the net addition of 4 dwellings as proposed is unlikely to produce more than a handful of additional peak hour vehicle movements and I cannot see that a small number of extra cars on local roads, even though well used, would make an appreciable difference to their traffic conditions.

7. Although Shootersway Lane falls short of the council's standards for adoption its current usage is well within its capacity, including that of its junctions and in view of its slow traffic speeds which are a consequence mainly of its poor surface I regard a marginal increase in its traffic as unlikely to cause appreciable inconvenience to other road users or disturbance to local residents. I understand that the mainly residential routes which connect the site to Berkhamsted town centre and to the A41 experience congestion particularly during peak hours which is exacerbated by the close spacing of difficult corners, extensive on-street car parking and many journeys to local schools but I cannot see that the few additional cars resulting from the proposals will significantly worsen these conditions. If traffic from the site does not follow the longer route to the A41 via Shootersway and Kings Road it is likely to travel along Greenway and thereafter seems likely to disperse imperceptibly amongst the variety of routes leading to Charles Street, Shrublands Road and Durrant Road and thence to the A41. While traffic is a growing problem on these roads the council have not placed an embargo on new development in the locality and in view of the scope for traffic management measures there to reduce congestion, also the need to make the best use of urban land in this

country in which development is heavily constrained and bearing in mind the good prospects for the construction of a Berkhamsted Bypass which would considerably relieve traffic congestion in the locality, I do not regard such an embargo as justifiable in the instance of this development. I therefore consider that the traffic generated by the proposals would not cause a significant inconvenience to highway users and that there are no good reasons on highway grounds for rejecting the proposal.

8. Turning to the question of residential amenity I can well understand the concern of local residents, particularly on Winston Gardens that their present outlook over open gardens would be replaced by a view of the houses. But it is not the loss of outlook of itself which is most relevant to my decision but the possible harm that may be caused by the proposed development. In this instance I am satisfied that the attractively designed houses in a wooded setting in which only one of the trees protected by the Tree Preservation Orders would be lost but which could be compensated for by new planting, would not be significantly damaging to visual amenity. Further the proposed houses would be sited generously distant from the neighbouring dwellings including "Wayfarers" and "Lane End", albeit on slightly elevated land such that by normal layout standards and particularly in relating to the spacing of other new building in the locality, they would not cause a significant loss of privacy by overlooking. Although this end of the Lane is particularly quiet I do not regard the proposed houses on spacious grounds as likely to create a noise problem. I can therefore see no good reason on the basis of the amenity of neighbouring dwellings why this proposal should not be permitted.

9. I have had regard to the previous appeal decisions taken in 1984 concerning developments of 4 and 5 houses on part of the appeal site and consider that the reasons for refusing these appeals on grounds of overdevelopment have been satisfactorily overcome by the present proposals on this larger site. There does not appear to have been a significant change in planning circumstances relevant to this case since 1985 and I consider that the housing policies of the relevant Local Plan which aim to concentrate housing development in the major urban area of inter alia Berkhamsted, subject to environment guidelines to which I consider this proposal conforms, do not militate against the proposed development. I have had regard to all other matters raised in the representations but they do not override these considerations which have led me to my conclusions. I can therefore find no sound reason why planning permission should not be granted in this instance and I therefore propose to allow this appeal. However in the interests of protecting the visual amenity of the locality, the privacy of the future occupiers of the proposed houses and their neighbours and the convenience and safety of road users associated with the proposed development and generally on Shootersway Lane, I am imposing conditions along the lines of those suggested by the council, concerning landscaping, the provision of both a means of access and boundary fencing and the type of external construction materials to be used.

10. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the construction of 5 detached houses and an estate road on land at "Malcyon" and "Wayfarers", Shootersway Lane, Berkhamsted in accordance with the terms of the application (No 4/0907/85) dated 12 July 1985 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. no development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development;

3. all planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development and any trees which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variations;

4. The buildings shall not be occupied until a means of vehicular access and boundary fencing has been constructed in accordance with the approved plans.

5. The dwelling hereby permitted shall be constructed externally using materials specified on plan 4/0907/85 or such alternative materials as may be approved in writing by the local planning authority.

11. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally of it the authority fail to give notice of their decision within the prescribed period.

12. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Sir

Your obedient Servant



A J DIXON BA MSc (Eng) MRTPI MCIT
Inspector

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Council's letter of notification of the inquiry and list of people notified.
- Document 3 - Bundle of 19 letters supporting the council.
- Document 4 - Copy of Tree Preservation Order relating to land at "Halcyon".
- Document 5 - Extract from Tree Preservation Order relating to land at "Wayfarers".
- Document 6 - Copies of planning decision notices (Refs 4/0523/84 and 4/0715/84).
- Document 7 - Copy of planning officer's report to committee (Ref 4/0907/85).
- Document 8 - Copy of the council's Development Control Committee agenda 17 December 1985 and officer's report (Ref 4/1369/85).
- Document 9 - Copy of Appeal Decision Letter (Ref T/APP/A1910/A/84/18117 and 20211).
- Document 10 - Schedule of planning permissions granted in the locality.
- Document 11 - Extract from the Dacorum District Plan.
- Document 12 - Copy letter from the Hertfordshire Fire Brigade.
- Document 13 - Letter from residents of Winston Gardens electing Professor Shotton as their representative.
- Document 14 - Copy of Dacorum District Plan annotated by Mr Clark.

PLANS

- Plan A - Appellant's plan showing the location of the appeal site and recent developments in the locality.
- Plan B - Bundle of 4 plans showing Scheme A dismissed on appeal in 1984.
- Plan C - Plan showing the schedule of trees included in the Tree Preservation Order relating to land at Wayfarers.
- Plan D - Council's plan showing Class A and minor roads in the locality.
- Plan E - Council's plan showing the location of applications permitted and refused in the locality.
- Plan F - Mr Carter's schematic road layout plan of the locality.
- Plan G - Mr Numan's annotated plan of the locality.

PHOTOGRAPHS

- Photo 1 - Bundle of 27 photographs of the area taken by Mr Carter.
- Photo 2 - Bundle of photographs taken by Mr Numan.
- Photo 3 - 2 display boards of photographs and location map prepared by Professor Shotton.
- Photo 4 - 2 display boards of photographs taken by Mr Numan.

APPEARANCES

FOR THE APPELLANTS

Mr D Hands

- of Counsel, instructed by Parrott and Coales, 14 Bourbon Street, Aylesbury, Bucks, HP20 2RS.

He called:

Mr A King

- Agent for the appellant.

Mr P M Prutton

- Senior Engineer, Denis Wilson and Partners, Consulting Engineers and Transportation Planners, Wilson House, 52 Southwark Bridge Road, London, SE1 0AR.

FOR THE PLANNING AUTHORITY

Mr K Pugsley

- Assistant Borough Solicitor for the council.

He called:

Mr J Nichols

- Borough Councillor for the council.

INTERESTED PERSONS

Mr J Carter

- as Ward Councillor, 1 Chalet Close, Shootersway Lane.

Professor E Shotton

- 10 Winston Gardens, also representing the occupiers of 8, 9, 11 and 12 Winston Gardens.

Mr Hill

- "Woodstock", Tewksway Lane.

Mr R Numan

- "Seafields", Shootersway Lane.

Mr I Beaty

- 6 Chalet Close.

Mr L Bennett

- Downs Place, Shootersway Lane.

Mrs Rosser

- 7 Winston Gardens.

Mrs Leary

- 15 Winston Gardens.

Mrs Barns

- "Brampton", Shootersway Lane.

Mrs Millner

- "Lane End", Shootersway Lane.

Mr Whitehead

- Borough Councillor, "Tinker's Hole", Tinker's Lane.

Mr Salmond

- "Oakleigh", Shootersway Lane.