

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF **DACORUM**

IN THE COUNTY OF HERTFORD

.....

To **Mr. & Mrs. J. A. F. Moore,**
'Greystoke',
Cross Oak Road,
BERKHAMSTED,
Herts.

Messrs. Stimpson, Lock & Vince,
9 Station Road,
WATFORD,
Herts.

..... **Two dwellings and accesses - OUTLINE**

.....

at **Land adjoining: 'Greystoke',**
Cross Oak 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 **6th July, 1979** and received with sufficient particulars on **9th July, 1979** 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 overdevelopment of the site and would adversely affect the character of Cross Oak Road.
- (2) The proposed development would have a seriously detrimental effect on the amenities and privacy of adjacent dwellings.

Dated **16th** day of **August** 19 **79** ...

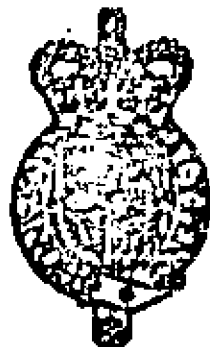
Signed...


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.

A/95/24.3



Department of the Environment

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1 ~~For Report~~ 2 ~~in Hill~~ ~~inf~~ ~~DTG~~
 3 Team 2 ~~inf~~ - return
 for report 8th May
 21 APR 1980 X

Messrs Stimpson Lock and Vince
 9 Station Road
 WATFORD
 Hertfordshire
 WD1 1DY

TECHNICAL SERVICES DEPT		Your reference	
ACTION		JWP/HJL	
21 APR 1980		Our reference	
FILE No.		T/APP/5252/A/79/10308/G5	
		Date	
		18 APR 1980	

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY MR AND MRS J A F MOORE
 LOCAL PLANNING AUTHORITY APPLICATION NO:- 4/0943/79

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 the erection of 2 detached houses with garages at "Greystoke", Cross Oak Road, Berkhamsted. I have considered the written representations made by you and by the council and also those made by interested persons.
2. The application before me in this appeal was accompanied by a plan showing the siting of the buildings and the means of access thereto. It accordingly seems to me that only the details of the design and external appearance of the buildings, and the landscaping of the site, properly fall to be treated as reserved matters in this case. I propose to consider this appeal accordingly.
3. I inspected the site on 18 March 1980 and observed that it comprised part of the attractive garden of the substantial dwelling known as "Greystoke". I noted that apart from a swimming pool and its immediate surrounds, the appeal site was covered with a thick growth of mature trees and shrubs. I noted that the old timber garage on the site had fallen into disuse.
4. From my inspection of the site together with its surroundings, and the representations made, I am of the opinion that the main issues in this case are whether or not the proposed development would firstly, be in keeping with the character of the area and, secondly, cause material harm to the environmental amenities of nearby dwellings and, thirdly, have safe and suitable access.
5. On the first issue I observed that the appeal site was located on a section of Cross Oak Road which had all the appearance hereabouts of a country lane with substantial detached houses standing in generally well treed curtilages. It seemed to me that to provide the double access to the proposed houses, and to provide any degree of visibility for drivers emerging therefrom into Cross Oak Road, that it would be necessary to clear most of the trees and shrubs which screen the appeal site from the road. Furthermore it seemed to me that it would be necessary to remove more trees than shown on the plan accompanying the application in order to allow for a reasonable degree of sunlight to reach the windows and gardens of the proposed houses. Whereas I am inclined to accept your submission that the proposed development would be "superior" to the development in Greystoke Close it seems to me that different considerations apply in respect of development fronting Cross Oak Road.

In my opinion the 2 houses, linked by their garages, and taking into account the clearing of trees and shrubs to which I have referred, would not be in keeping with the pleasant character of this part of Cross Oak Road.

6. On the second issue it seemed to me that the nearby development most affected by the proposed development would be "Little Corner". I observed that the occupants of that dwelling were already subject to many of the environmental disadvantages associated with "tandem" development by virtue of the drive to the dwelling "Martin Way", and a public footpath, running in front and along the side of that house. It seemed to me that the most southerly of the 2 proposed houses on the appeal site would protrude through the line of trees on the common boundary between the appeal site and "Little Corner" and there would only be about 60 ft separating the backs and fronts of the 2 houses. I am not persuaded that the trees that would be likely to remain on the appeal site, or indeed any landscaping thereof, would be sufficient to screen the intervisibility between the 2 properties. In my opinion the proposed development would cause material harm to the environmental amenities of the occupants of "Little Corner" making it a substantially less pleasant place to live in.

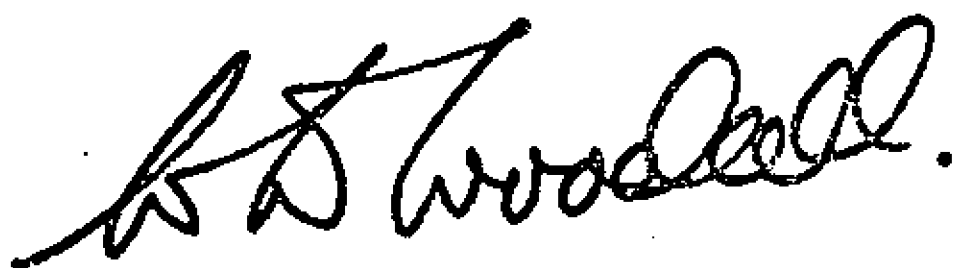
7. In my opinion the only other nearby dwelling that would be materially affected by the proposed development would be "Greystoke" itself. I noted that the front of this fine house, and the garden adjoining it, were overlooked by the houses to the west of it in Greystoke Close. I am not persuaded that the hedge and trees on the north-east boundary of the appeal site would be sufficient to mitigate the sense of urban enclosure with buildings that would be added by the flank wall of the most northerly of the 2 proposed dwellings which would be open to full view from all the south facing windows of "Greystoke" and only about 110 ft away therefrom.

8. Turning now to the third issue, on which I have received a number of representations, it seemed to me that Cross Oak Road performed a function of a Local Distributor Road. I observed that the appeal site was situated on the inside of a shallow bend in Cross Oak Road where there were no footpaths or verges on the side of the carriageway and the visibility of drivers of vehicles was severely restricted by high bushes and trees. In my opinion it would not be possible to secure adequate sight lines in a south-westerly direction on land within the control of the appellant sufficient to ensure that drivers emerging from the accesses in the position proposed would have an unobstructed view of traffic approaching from the south-west. In my opinion the proposed accesses are neither suitable nor safe and would be likely to cause both vehicular and pedestrian traffic hazards in Cross Oak Road which would be quite wrong and contrary to long established policies.

9. I have considered all the other matters raised in the written representations but am of the opinion that they are not of sufficient strength to outweigh the considerations that have led to my decision.

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

I am Gentlemen
Your obedient Servant



W D WOODALL FRICS FRTPI
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.