



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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MIDDLESEX
HA4 7DA

Your Ref:

BW

Our Ref:

T/APP/A1910/A/95/248965/P5

Date:

- 5 OCT 1995

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY SUNNY ROCK (BERKHAMSTED) LTD
APPLICATION NO: 4/1104/94

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL	
Ref.	100
Received	06 OCT 1995
Comments	

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Dacorum Borough Council to refuse outline planning permission in respect of an application for the construction of three dwellings and garages on land to the rear of 9 and 11 Kingsdale Road, Berkhamsted. I held a local inquiry into the appeal on 30 August 1995.

2. The application is in outline with all details, save for the means of access, reserved for approval at a later stage. It is accompanied by a site layout, cross-sections and perspectives which are for illustrative purposes only.

3. The appeal site is situated behind a pair of detached houses at the end of Kingsdale Road, a residential cul-de-sac at the head of a valley about 1km from the town centre. With an area of some 0.34 hectares, it comprises the larger part of the rear gardens situated on rising ground behind numbers 9 and 11. Access to the development is proposed via a new driveway running along the side boundary of numbers 9 and 7.

4. The surrounding area comprises dwellings of comparable size, set mostly in spacious residential plots, with substantial tree and shrub cover providing a semi-woodland appearance. In the past several of the larger plots have been sub-divided for residential infill development.

5. Since 1987 the appeal site has been the subject of various unsuccessful planning applications for residential development. In 1988 outline planning permission was granted for 2 dwellings to the rear of number 9 but this permission has lapsed. In 1992 permission was refused for a scheme for two dwellings on that part of the site; a subsequent appeal was dismissed by an inspector in 1993. It is central to your client's case that the present application, incorporating adjacent land to the rear of number 11, specifically addresses the adverse conclusions of my colleague concerning the spacing of the dwellings in that scheme.

6. The statutory development plan for the area comprises the Hertfordshire County Structure Plan Review (Alterations 1991) and the Dacorum Borough Local Plan (1995). The structure plan aims to protect and enhance existing settlements while at the same time making full use of opportunities for recycling urban land. Development will generally be concentrated in a number of listed towns, including Berkhamsted. The towns are expected to provide the maximum contribution to housing needs consistent with the need to ensure that development is of good design and relates well to the special character of neighbourhoods.

7. The local plan has housing and environmental policies in similar vein. It anticipates a high standard of design and states that development will not be permitted unless it is appropriate in relation to adjoining property and in the context of longer views, and is able to satisfy a range of environmental guidelines. Policy 101 states that proposals for sites involving an increase in the dwelling density will be assessed having particular regard to their effect on the amenity and character of the surrounding residential area.

8. From the planning policies and history of the site, the evidence at the inquiry and my site inspection, I consider that there are two main issues. The first issue is the effect of a development of three dwellings on the character and appearance of the area; and the second is whether such a development would cause unacceptable harm to the living conditions of the occupiers of adjoining dwellings by reason of overlooking, loss of privacy and reduced outlook.

9. I acknowledge the points you made about the way in which the character of Kingsdale Road and environs varies across the area, and that past and recent planning permissions for infill development have tended and will continue to increase the original density of the area. Nevertheless, longer views of the valley reveal that the overall impression remains one of substantial dwellings in spacious plots, well integrated into the sloping terrain and established landscaped setting.

10. I appreciate that a development of split level units could be set in to the slope of the site, as shown on the indicative site layout, helping to reduce the resultant height of the buildings. However, following careful inspection of the site from the road and the rear of several adjoining houses, my opinion is that the development of three dwellings, of the type and bulk shown on the indicative layout, would adversely affect the balance of built form to open spaces and natural environment in the vicinity. In my judgement, given the slope and the need to accommodate garaging, parking and turning space for motor vehicles, any development of three detached dwellings of similar or smaller size would be likely to appear cramped and intrusive within this backland, semi-rural setting. Consequently, I conclude that the proposal would not accord with the aims of approved development plan policies intended to protect the character and appearance of local neighbourhoods.

11. Turning to the second main issue, at the inquiry the Council did not dispute that its minimum space standard between dwellings could largely be met by the indicative scheme. Your overlays indicated that, by cutting the buildings into the slope of the site and erecting intervening fencing, privacy levels between facing windows could be no worse, and possibly better, than that expected on a typical flat site. However, the Council pointed out that the local plan guidelines indicate that, depending on the character and levels of the area and site, such minimum distances may need to be increased.

12. It is true that the indicated scheme does improve on the spacing in the earlier scheme considered by my colleague. At the site inspection I saw that the positioning of fencing could help to prevent direct overlooking. However, it would not provide the degree of privacy in the rear gardens of adjoining properties which has been enjoyed by their occupiers to date. This is particularly so with regard to the siting of the dwelling on indicative plot 3. The suggested fencing, in conjunction with the slope, would restrict the outlook from the rear of the adjoining dwellings to the south and east which are on significantly lower ground.

13. While careful siting and design may assist in minimising the adverse effects of a dwelling here, in my opinion, its proximity to the private rear gardens of number 11, and the adjoining dwellings to the west and south, would lead to overlooking and/or increased noise and activity being experienced by the existing occupiers.

14. I conclude that the proximity of the adjoining dwellings and the changes in level across the site are such that the development of three dwellings as indicated would be likely to lead to a cramped development, causing unacceptable harm to the living conditions of adjoining occupiers. In the absence of a detailed scheme, I consider that these objections are sufficient to justify refusing planning permission.

15. In reaching my conclusions I have considered the recent grants of planning permission for other sites in Kingsdale Road, but I do not find these directly comparable with the circumstances of the appeal site. In any event it is a well established principle that each case falls to be considered on its merits.

16. While I have considered the views of local residents about the increased traffic and noise likely to be generated by the development, I note that there is no objection from the highway authority. In my view, the level of traffic likely to be generated by three dwellings would not be so substantial as to warrant withholding planning permission. However, the proposed access drive does run close to the sides of numbers 7 and 9 and its use by traffic from three dwellings would lead to some increase in traffic noise and disturbance. This lends weight to my conclusions on the main issues.

17. I have considered all of the other matters raised but I find nothing which outweighs the considerations leading to my conclusions.

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

Yours faithfully



PHILIP A GOODMAN BA(HONS) DMS MRTPI MIMgt
Inspector

APPEARANCES

FOR THE APPELLANT

- Mr B White FRICS MRTPI** - Chartered surveyor, town planning and development consultant and agent, appeared as advocate and witness

FOR THE LOCAL PLANNING AUTHORITY

- Miss N Pope** - Solicitor employed by the Council

She called:

- Miss F M A Moloney BA (Hons) DUPI MRTPI** - Senior Planning Officer with the Council

INTERESTED PERSONS

- Mr K Gay** - The Glade, Kingsdale Road, Berkhamsted, Herts HP4 3BS
- Mrs G Comminos** - Holdsworth, Cross Oak Road, Berkhamsted, Herts HP4 3NA
- Mr N Comben** - Gillams, Cross Oak Road, Berkhamsted, Herts HP4 3NA

DOCUMENTS

- Document 1** - List of persons present at the Inquiry
- Document 2** - Council's letter of notification of the Inquiry and list of persons notified
- Document 3** - Bundle of letters received in response to Document 2
- Document 4** - Appendices WA1-6 to Mr White's proof
- Document 5** - Annexes A-L to Miss Moloney's proof

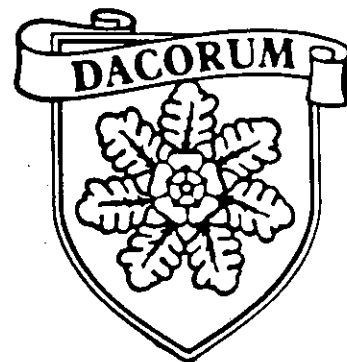
- Document 6 - List of conditions suggested by the Council
- Document 7 - Appellant's written representations to previous appeal inspector - 11/9/92
- Document 8 - Plan giving details of history of planning applications in the vicinity of the appeal site
- Document 9 - Appeal decision letter re site to the rear of 5 Kingsdale Road - 26/2/92 (Ref: T/APP/A1910/A/91/186540/P8)
- Document 10 - Plans showing development granted planning permission at rear of 5 Kingsdale Road in April 1994

PLANS

- Plan A - Drawing No 9456/3 - plan comprising the application plan
- Plan B - 4 illustrative plans accompanying the application:
 - 9456/1 (& 1B) layout/section
 - 9456/2 'views'
 - 9456/4 recent development
 - Site Survey Plan
- Plan C - Bundle of plans, sections and overlays submitted with the Rule 6 statement and during the inquiry for illustrative purposes only (Drawing nos: 9520/1&1A; 3; 4; 5; 6; 7; 8; 9; 10; 10A; 11)

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL



Application Ref No. 4/1104/94

Sunny Rock (Berkhamsted Limited
C/o White Associates

White Associates
4 Kingsend
Ruislip
Middx
HA4 7DA

DEVELOPMENT ADDRESS AND DESCRIPTION
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Land rear of 9 and 11 Kingsdale Road, Berkhamsted, Herts

THREE DETACHED DWELLINGS AND ACCESS ROAD (OUTLINE)

Your application for *outline planning permission* dated 01.08.1994 and received on 22.08.1994 has been **REFUSED**, for the reasons set out on the attached sheet(s).

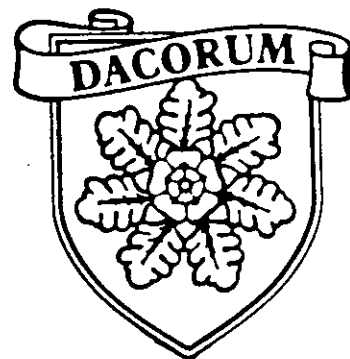
Director of Planning

Date of Decision: 10.11.1994

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/1104/94

Date of Decision: 10.11.1994



The proposed development would have an overbearing impact on surrounding development and would have a seriously detrimental effect on the amenities and privacy of surrounding properties and the environment of the locality due to the topography of the site and proximity to nearby dwellings.