

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mrs G Healey
'Medlar Tree'
Gravel Path
Berkhamsted
Herts

Aitchisons
154 High St
Berkhamsted
herts HP4 3AX

.....Erection of two detached dwellinghouses, and.....
.....alterations to access (Outline).....
at'Medlar Tree', Gravel Path,.....
.....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 dated17.6.88..... and received with sufficient particulars on20.6.88..... 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 submitted details fail to indicate the appearance of the wooded embankment between the frontage of the application site and Gravel Path that would result from engineering operations to provide both sight-lines and radii involved in the improvement of the existing sub-standard vehicular access to serve the proposed dwellings. Major earthworks to the embankment would be likely to detract from the semi-rural character of Gravel Path, including the loss of and adverse effect upon existing trees which are of high amenity value.
2. The sightline to the south encroaches upon land not within the control of the applicant. Required visibility cannot be achieved and the proposal as submitted therefore fails to provide satisfactory means of access.

Dated 2nd day of February 1989

Signed.....

Wm Bama

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.

TOWN AND COUNTRY PLANNING ACT 1971

NOTICE IS HEREBY GIVEN THAT

MISS B A WHITBREAD DipTP MSoc SCi MRTPI

AN INSPECTOR, APPOINTED BY

THE SECRETARY OF STATE FOR THE ENVIRONMENT

WILL ATTEND AT

THE BULBOURNE ROOM, CIVIC CENTRE, HEMEL HEMPSTEAD

ON

THURSDAY, 14 DECEMBER 1989, AT 10.00 AM

TO HOLD A LOCAL INQUIRY INTO THE APPEAL BY

MRS G HEALEY AGAINST THE DECISION OF DACORUM DISTRICT COUNCIL WHO HAVE REFUSED TO PERMIT THE ERECTION OF 2 DWELLING HOUSES, AND ALTERATIONS TO ACCESS (OUTLINE) ON THIS SITE NAMELY: 'MEDLAR TREE', GRAVEL PATH, BERKHAMSTED.

D A C MARSHALL

AN ASSISTANT SECRETARY IN THE DEPARTMENT OF THE ENVIRONMENT

✓
appeal by Mrs Ena Healey
under s36 of the Town and Country Planning Act 1971

against the decision of
Dacorum Borough Council as local planning authority

to refuse planning permission for the
erection of two detached dwellinghouses and
alterations to access (outline)

at

Medlar Tree Gravel Path Berkhamsted Hertfordshire

statement of case of
R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb
under rule 6(3) Town and Country Planning
(determination by inspectors) (inquiries procedure)
rules 1988 (S.I.945)

DoE ref APP/A1910/A/89/123495

LPA ref 4/1181/88

our ref RCS PBB 4272.88

date 30 June 1989

Clifford W and R C Shrimplin
chartered architects and chartered town planners
11 Cardiff Road Luton
Bedfordshire LU1 1PB

tel 0582 404282

PLANNING DEPARTMENT			
DACORUM BOROUGH COUNCIL			
Ack.			
CLERK	TOPIC	PL	Adm.
			File
Received		- 5 JUL 1989	
Comments			

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01.00 introduction

01.01

The appellant will explain that the appeal arises from an outline application for planning permission to redevelop the site of Medlar Trees, Gravel Path, Berkhamsted.

01.02

The application was originally submitted in June 1988 for three new dwellings and subsequently amended. The second amendment, for two new dwellings, was refused permission by letter dated 02 February 1989.

01.03

The council's reasons for refusal were as follows :

"1. The submitted details fail to indicate the appearance of the wooded embankment between the frontage of the application site and Gravel Path that would result from engineering operations to provide both sightlines and radii involved in the improvement of the existing sub-standard vehicular access to serve the proposed dwellings. Major earthworks to the embankment would be likely to detract from the semi-rural character of Gravel Path, including the loss of and adverse effect upon existing trees which are of high amenity value.

"2. The sightline to the south encroaches upon land not within the control of the applicant. Required visibility cannot be achieved and the proposal as submitted therefore fails to provide satisfactory means of access."

01.04

It will be noted that a subsequent application for three dwellings on a slightly enlarged site was submitted by the appellant's agents on behalf of the new owner of the land on 13 April 1989. Additional information was provided with this application as requested by the council but they have still failed to determine the application within the statutory period.

02.00 site and surroundings

02.01

The appeal site lies on the Eastern side of the town of Berkhamsted in Hertfordshire (but clearly within the urban area). The appellant will provide a description both of the site and the area surrounding it.

03.00 planning history

03.01

The appellant may make reference to recent planning decisions (at application and appeal level) in the immediate locality and to the background of the refusal which is the subject of this appeal.

04.00 policies

04.01

The appellant will refer to the provisions of the two elements of the statutory development plan for the area :

a. Hertfordshire County Structure Plan 1986 Review approved with modifications by the Secretary of State for the Environment in May 1988;

b. Dacorum District Plan adopted by the local council in January 1984.

04.02

In particular, reference may be made to the following policies :

a. CSP policies 47 48 49 57 71 72

b. DDP policies 18 19 31 63 64 66

04.03

These policies will be placed in national context of Ministerial guidance and advice. In particular reference may be made to circulars 22/80 14/84 15/84 and 14/85 and Planning Policy Guidance Notes Nos 1 2 3 7 and 13.

05.00 planning issues

05.01

It will be noted that the principle of redevelopment of the site is not an issue and that it complies with policies (at all levels) which seek to make the best use of urban land.

05.02

The appellant will argue that the major points at issue are the means of achieving :

- a. the provision of a safe access on to Gravel Path
- b. the conservation of the character of the area

05.03

It will be pointed out that the application was for a maximum of three dwellings with a shared access drive on to Gravel Path, a winding minor road upon which conditions dictate normal maximum speeds below the speed limit of 30mph.

05.04

Junction standards set out in "Residential Roads in Hertfordshire" "Design Bulletin 32 (Residential Roads and Footpaths)" and PPG13 will be considered and that advised by the Director of Technical Services (6m radii and 2.4m x 60m sightlines) will be noted.

05.05

The means of obtaining an appropriate junction will be discussed. The council's allegation that adequate sightlines cannot be achieved on land within the control of the applicant or the highway authority will be refuted. It will be demonstrated that the council have overestimated the scale (and hence the visual impact) of the engineering works necessary to achieve a satisfactory junction.

05.06

The appellant will argue that, bearing in mind the submitted drawings and the lengthy negotiations which preceded the refusal and allowed ample time for adequate site inspection, sufficient information was available to the council for a proper appreciation of the necessary alterations to the access. The council's officers have refused to meet on site to clarify the works needed.

05.07

The appellant will agree that the appearance of Gravel Path is important. However, its overall conservation does not require the preservation of every tree and bush existing today. Selective removal of vegetation could both enhance the appearance of the road edge and improve road safety. The impact of the excavation for sightlines upon important existing trees and shrubs will be disputed. The level of impact cited in the council's 6(1) statement does not accord with the Woodland Officer's own report to committee (dated 02 February 1989) and is a gross overestimate. In any case Gravel Path is not a "rural lane". The phrase "semi-rural" used elsewhere in the rule 6(1) statement provides a better description.

05.08

The council have made reference to the Chilterns Area of Outstanding Natural Beauty and to an appeal decision on an adjoining site, presumably Meadow Cottage. The appellant will agree that, curiously enough, the Area of Outstanding Natural Beauty includes this part of the built-up area but will note that it encloses a salient proposed for deletion from the Area of Outstanding Natural Beauty in the recent boundary review approved by the Countryside Commission and awaiting confirmation by the Secretary of State.

05.09

With regard to the appeal decision referred to by the council, the appellant will point out that the location of that site on the highway and the quality of its woodland screen are in no way comparable with Medlar Trees - each application must be judged on its own merits.

06.00 other observations

06.01

The appellant will show that, notwithstanding the council's statement to the contrary, the reasons for refusal do not accord with the facts.

06.02

Moreover, in applying the standards for junctions the council has acted too rigidly, apparently wishing to apply the "worst case" parameters and has failed to observe the final paragraph (para 6) of appendix C to Planning Policy Guidance Note no 13. Because highway standards have been applied too rigidly and uncritically and not weighed with all the other material considerations the amount of engineering work and hence damage to trees, has been seriously over-exaggerated.

06.03

The appellant will argue that the "major earth works" envisaged by the council are unnecessary in the construction of a safe access which can be achieved by less drastic cutting back of the bank. These lesser works would not affect the trees and shrubs to the extent envisaged by the council but in any case the depth of planting along the frontage is such that some thinning and replanting should be carried out to enhance the character of the area.

06.04

The Inspector's attention will be drawn to the absence of correspondence from third parties. None was mentioned in the officer's report to committee. It will be noted that Berkhamsted is the type of settlement where active concern for the environment would be expected.

07.00 planning conditions

07.01

The appellant will suggest suitable conditions to be attached to the planning permission if this appeal is allowed.