

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mr J E Smith
31 Hazel Road
St Albans

Brown & Merry
128 High Street
~~St Albans~~ BERKHAMSTED

	Two dwellings and garages, outline

at	Land rear of Shenstone Cottage
	Byways, 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 dated 23rd September 1983 and received with sufficient particulars on 23rd September 1983 and shown on the plan(s) accompanying such application..

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

The private drive over which access to the development would be taken is below standard, and visibility is restricted at its junction with Gravel Path. In the opinion of the local planning authority further residential development served by Byways would be most undesirable and would if permitted lead to conditions prejudicial to highways safety.

Dated 15th day of December 19 83

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

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



**Department of the Environment and
Department of Transport**

Common Services

Room 1420

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218927

Switchboard 0272-218811

GTN 2074

**CHIEF EXECUTIVE
OFFICER**

7 DEC 1984

File Ref.
Refer to *CPO 7/12*
Cleared

BBW Partnership
Cedar House
Glade Road
MARLOW
Buckinghamshire
SL7 1DQ

Your reference

6943/JFY/M

MENT

Our reference

COUNCIL

T/APP/A1910/A/84/16801/P4

Date

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Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY J E SMITH
APPLICATION NO: 4/1238/83

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. Your client's appeal is against the decision of Dacorum Borough Council to refuse planning permission for the erection of 2 dwellings and garages on land adjoining Shenstone Cottage, Byways, Gravel Path, Berkhamsted. I have considered the representations made by you and by the council, together with those from a number of interested persons. As you know I inspected the site on Thursday 18 October 1984.
2. From my consideration of the representations and my inspection it seems to me that the main issue in this case is whether or not the nature of the private drive, Byways, over which access would be obtained to the site, and its junction with Gravel Path would lead to unacceptable highway dangers and inconvenience were the proposal to proceed.
3. The access drive from the appeal site meets Byways on the outside of a right angled junction of that unadopted road. From this position visibility along Byways is satisfactory. Traffic is light and despite the fact that the unadopted road has no footpaths it is reasonably wide. In my view no serious disadvantages would arise from its use by the limited additional traffic to arise from the development.
4. The junction between Byways and Gravel Path is by modern standards less good. At this point Gravel Path is dropping down towards the town and Byways itself falls towards the junction, where some potholes occur and the surface of the unadopted road is looser. There are no properly defined kerb radii, nor sight lines and the land is banked up slightly on each side of the junction. I noted that vehicles travelling towards Berkhamsted moves briskly, while traffic pulling up the hill from the town travels a little more slowly. From my observations both standing and from my car I estimated that visibility in each direction is of the order of 70 m. I accept that on the south side there are probably times of the year when hedgerow and verge growth does create a blind spot over part of this distance. Nonetheless various private accesses emerge onto Gravel Path lower down the hill and mirrors and concealed drive signs warn north bound drivers of these hazards. The junction of Byways itself is signed about 50 m south of the junction and the bends of Gravel Path beyond Byways. It seems to me that in these, admittedly imperfect, conditions caution is induced in drivers on the classified road and that the length of the carriageway of Gravel Path that may be obscured at times would not introduce serious highway dangers for users of either road.

5. The council has referred to an agreement under Section 52 of the Act which has been concluded in connection with a nearby permission whereby acceptable improvements to the junction have been agreed although not yet implemented. A similar agreement has been suggested in your client's case. I have no doubt that the realignment of the junction in the manner shown on appendix 3 of the council's submissions would improve conditions, although I am not convinced that visibility would be significantly increased. However such an agreement would require approval of all the owners of Byways and from the remarks made by interested persons I am doubtful if this would be forthcoming. Moreover I am satisfied that it is not essential for the reasons I have explained above. I conclude that there are no overriding planning objections to the proposal. If development is to proceed, however, in my view the existing trees and hedges on the site are important features that need to be conserved as far as possible consistent with the layout of the dwellings.

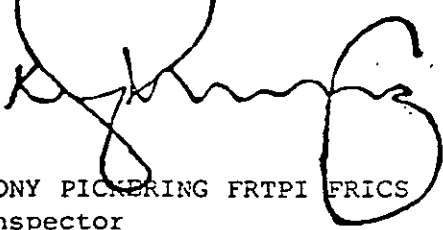
6. I have considered all the other matters raised but find none of such weight as to alter my decision. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of 2 dwellings and garages on land adjoining Shenstone Cottage, Byways, Berkhamsted in accordance with the application No 4/1238/83 dated 23 September 1983, and the drawings submitted therewith (the detailing of which I take to be illustrative only) subject to the following conditions:

1.
 - a. approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter referred to as the "reserved matters") shall be obtained from the local planning authority.
 - b. application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this letter.
2. The development hereby permitted shall be begun on or before which is the later of the following dates:
 - a. 5 years from the date of this letter; or
 - b. the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved.
3. The existing trees and hedges shall be retained and shall not be felled, lopped or topped without the previous written consent of the local planning authority. Any tree or hedgerow planting removed without such consent or dying, or being severely damaged or seriously diseased shall be replaced with trees or planting of such size and species as may be agreed with the local planning authority.

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

8. This letter does not convey any approval or consent which may be require any enactment, byelaw, order or regulation other than Section 23 of the Town a Country Planning Act 1971.

I am Gentlemen
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'Tony Pickering', with a large, stylized flourish at the end.

TONY PICKERING FRTP I FRICS
Inspector