

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mr & Mrs N Webb
17 Castle Hill
Berkhamsted
Herts

Robert L Parkins
Surveyors, Architects, Designers
2 Dodds Lane
Piccotts End
Hemel Hempstead

..... One dwelling; change of use from highway to
..... residential
.....
atRear of 17 Castle Hill, 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 3 July 1988 and received with sufficient particulars on 5 July 1988 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 proposed development encroaches on a public highway and amenity area causing unacceptable restriction of the width of the right of way and resulting in visual and physical intrusions to the detriment of public amenity and the environment of the locality.
2. There is inadequate provision for vehicle parking and turning within the site on land clear of the public highway.
3. The proposal represents an overdevelopment of the land beyond the highway to the detriment of visual and general amenity and the character of the area.
4. The proposal involves excavation and provision of hard surfaces within 6 metres of a tree, the subject of a Tree Preservation Order.

Dated 20 day of October 19 88

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.

attention to matters of design, loss of amenity, loss of trees and overdevelopment.

CONSIDERATIONS - The application site is within the urban area of Berkhamsted and there are no policy objections to the siting of the dwelling in the location. The size of the plot as indicated is adequate, although slightly smaller than the average plot size in the vicinity.

Notwithstanding, the application site incorporate 76 sq m (818 sq ft) of highway land at the southern end of the plot. This was apparently enclosed by the applicant some 5 years ago when he claimed 'squatter rights' to the land. The highway authority have subsequently served notice under S.143 of the Highways Act 1980, for the removal of the obstruction. This matter is still in hand.

Lime Walk is an ancient right of way between Berkhamsted Place and the town centre. The 8 m (26 ft) wide avenue of Lime trees has a footway running down the middle, and is a very attractive feature of the locality. The Borough Council, as Highway Authority, although not owning the subsoil of the land, maintains the trees, verges and walkway as a public highway. The applicants enclosure of the land by fast growing trees and shrubs has resulted in the highway being narrowed to 2.5 m (8 ft) of the narrowest point, and a divergence of the footway itself. This has created both visual and physical restrictions at the junction with Castle Hill Avenue resulting in a significant reduction of public amenity.

If the application site excludes the area of highway land it is reduced to 716 sq m (7707 sq ft). Although this may be adequate to accommodate a small dwelling, the proposed house is very substantial on a plot which would be considerably smaller than others in the locale. The proposal also offers scope for an increased floorspace by insertion of an upper floor in the steeply-pitched, single-storey element. In addition, the highways land allows for the turning of vehicles within the application site, a manoeuvre that would clearly not be possible without that land.

The design of the house is slightly irregular and offers a considerable mass and bulk on the restricted plot particularly at ground level. Although there are no problems of overlooking other properties, I do not consider the house design of itself to be a justification for refusal, although it clearly influences the amount of land available for parking and circulation.

RECOMMENDATION - That planning permission be REFUSED (on form DC4) for the following reasons:

1. The proposed development encroaches on a public highway causing unacceptable restriction of the width of the right of way and resulting in visual and physical intrusions to the detriment of public amenity and the environment of the locality. *amenity area*
2. There is inadequate provision for vehicle parking and turning within the site on land clear of the public highway.

3. The proposal represents an overdevelopment of the land beyond the highway to the detriment of visual and general amenity and the character of the area.
4. The proposal involves excavation and provision of hard surfaces within 6 metres of a tree, the subject of a Tree Preservation Order.

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- B, Enforcement authorised over use of
highway/amenity land as res. garden
- C, Bor. Sec. to investigate validity of Notice

DACORUM BOROUGH COUNCIL
HIGHWAYS ACT 1980 SECTION 143

TO: MR AND MRS N WEBB
17 CASTLE HILL
BERKHAMSTED
HERTFORDSHIRE

The DACORUM BOROUGH COUNCIL as agents for Hertfordshire County Council the highway authority in respect of the highway known as Berkhamsted Footpath 24 otherwise known as Lime Walk Berkhamsted hereby give you notice under and in pursuance of s.143 of the Highways Act 1980 that they require you within 21 days after service of this Notice upon you to remove a structure being a structure erected or set up by you upon the said highway.

If the said structure is not removed within the time required by this Notice the Council may after the expiration of one month from the date of service of this Notice remove the structure and recover from you the expenses reasonably incurred by them in so doing.

Dated this TWELFTH day of OCTOBER 1988

R M Scott
for DIRECTOR OF TECHNICAL SERVICES
Dacorum Borough Council
Civic Centre
Marlowes
Hemel Hempstead
Herts HP1 1HH