

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To

Colin Brace
MBM Construction Ltd
34 Woodstock Road
BroxbourneJohn H James & Company
Sawtrees Manor
Cold Christmas Lane
Thundridge
Ware

.....Two detached dwellings and 4 car parking spaces.....

 at ...Land rear of 48 and 50 Fairway, Hemel Hempstead.....

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 dated12th October 1984..... and received with sufficient particulars on15th October 1984..... and shown on the plan(s) accompanying such application.

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

- (1) It is considered that the erection of a further two dwellings to the rear of the existing property would create an unsatisfactory development detrimental to the privacy and amenities of existing residential property.
- (2) The shared vehicular accessway to the proposed car parking facilities is of inadequate width and unsuitable for the additional traffic which would be generated. Furthermore, the proposal will create conditions of danger and inconvenience to pedestrians using the existing right of way.
- (3) The proposal as submitted does not provide for a satisfactory means of access to the dwellings for service vehicles; the proposed houses are situated beyond normal dustbin carrying distance and no provision has been made for dustbin storage within convenient distance of the highway.

Dated28th..... day ofNovember.....19 84.....

Signed.....

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

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J H James and Company
Sawtrees Manor
Cold Christmas Lane
Thundridge
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SG12 7SP

Your reference

GRD/WA		PLANNING DEPARTMENT	
Our reference		T/APP/AL9107/M/85/029330/NC	
Date		11/3 AUG 85	
C.P.O.	D.P.	C.	P.C.
Ack.		Admin.	File
Received		14 AUG 1985	
Comments		Copies sent to Mrs Jones Lucas, Hewes & Morris 27/8/85	

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY M B M CONSTRUCTION LIMITED
APPLICATION NO: 4/1355/84

- As you know, I have been appointed by the Secretary of State for the Environment to determine the above appeal. This is against the decision of the Dacorum District Council to refuse planning permission for the erection of 2 detached dwellings and 4 car parking spaces on land at the rear of 48 and 50 Fairway, Hemel Hempstead. I have considered the written representations made by you, by the council, the Nash Mills Parish Council and interested persons. I inspected the site on 17 June 1985.
- From what I have seen on site and read in the representations I have formed the opinion that the main issues in this case are, firstly, the effect the proposal will have on the safety of the shared access road and public footpath and, secondly, the effect the bungalows would have on the amenities of neighbours.
- Although on the submitted plans you show the 3.4m access drive continuing across part of the front garden of 52 Fairway, (red lines on the 1:200 site layout drawing B.43.1A) this conflicts with the council's plan and the impression given in the representations. This leads me to believe that the access drive and public footpath (RUPP 70) join just before their combined junction with Fairway. I consider that for the purposes of this appeal the garden of 52 Fairway has been included in the appeal site in error.
- Although the site lies within the area of an approved Structure Plan, and the Dacorum District Plan, no specific planning restrictions affect it.
- Regarding the first issue I find that the appeal site is served by an existing shared access drive which is about 3.4m wide. A separate public footpath adjoins to the west. Although the drive slopes rather steeply and is somewhat below the minimum width standards suggested by the highway authority I feel it could reasonably serve an extra 2 dwellings. However towards its northern end the drive merges with the adjoining public footway. This section of shared private drive and public footpath is, I feel, too narrow for such joint use. Also drivers of motor vehicles leaving the site to join Fairway cannot see to their left; their vision being obstructed by 50 Fairway's close-boarded garden fence. Although the motorist has better vision to his right, across the low garden wall of 52 Fairway, the applicant does not appear to have

control over this boundary so a higher obstruction could be erected obscuring visibility in this direction also. Because of the heavy pedestrian use of footpath RUPP 70 I find this situation potentially dangerous and cannot accept that any more vehicular traffic can be carried safely. However with minor alterations to the access drive I believe safety objections could be overcome.

6. Turning to the second issue I find that the proposed bungalows, although sited at the bottom of the rear gardens to 48 and 50 Fairway and only about 13m from their rear windows, would not overshadow or overlook the existing houses. This is because there is a steep slope in the rear gardens so the bungalows will be built on land some 4m lower than the houses above. Also the dwelling nearest 48 and 50 Fairway would not have windows on its northern flank wall which would in any event be screened by a brick wall. Principal rooms look either across the shared parking spaces to their fronts or onto the walled rear gardens. The only possible loss of privacy might be some overlooking of the appeal dwelling's gardens from the existing houses situated on higher ground. This, together with any possible disturbance from the garage which adjoins the appeal site to the south, is a matter between the developer and the prospective purchasers of the bungalows and should not, in my opinion, affect the merits of the proposal from a planning point of view.

7. I have also considered the effect the proposal would have on the character of the area. Although the layout is a variance with the general pattern of building in Fairway I do not consider this is a matter to which I can give much weight. In any event the character of the land adjacent to footpath RUPP 70 is different from the rest of the housing estate particularly bearing in mind the commercial and other development to the south and the new houses opposite. The site is also at present somewhat untidy and underused and would in my opinion be improved by the construction of 2 modest bungalows.

8. Although I do not find that the appeal proposals would spoil the amenities of neighbours I accept that the existing vehicular access, where the shared private drive joins the public footpath just before its combined junction with Fairway, is unacceptable as it stands. This latter problem which is concerned with the safety of pedestrians is sufficient to dismiss the appeal. However I believe that these objections could be overcome if the northern pinchpoint was widened to at least 4.1 m and improved visibility, at least two 2m by 2m splays, provided at its junction with Fairway. I consider that there is a reasonable prospect of these works being carried out within the timespan of this permission and I intend, therefore, to allow the appeal subject to a condition requiring deficiencies in vehicular access being rectified before development commences. I also consider the detailed plans do not show sufficient details of the landscaping of the site that will be carried out nor do they show clearly the extent of the proposed brick boundary wall which should be built to ensure the privacy of the existing dwellings. I shall impose conditions requiring these works to be carried out.

9. I have taken into account all the other matters raised in the representations including service access and dustbin carrying distances, but such matters do not alter my conclusions regarding the other material considerations which have led to my decision.

10. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of 2 detached dwellings and for car parking spaces on land at the rear of 48 and 50 Fairway, Hemel Hempstead in accordance with the terms of the application (No 4/1355/84) dated 12 October 1984 and the plans submitted therewith, subject to the following conditions:-

1. the development hereby permitted shall be begun before the expiration of five years from the date of this letter;
 2. no development shall take place before the shared part of the access drive, and footpath RUPP 70, is increased to a minimum of 4.1m wide and two 2m x 2m visibility splays provided, to the back of the existing footway, at its junction with Fairway;
 3. no development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on this land, and details of any to be retained, together with measures for their protection in the course of development;
 4. all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;
 5. before the dwellings hereby permitted are occupied boundary walls shall be constructed in accordance with a scheme to be agreed with the local planning authority.
12. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of 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.
13. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant



C A THOMPSON DipArch DipTP RIBA MRTPI Reg Architect
Inspector