

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Mr S McMullen Flat & Mead  
5 Shrublands Road 158 High Street  
Berkhamsted Berkhamsted

.....Two dwellings (outline).....  
.....  
at .....Land rear of 5 Shrublands Road, 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 .. 28th November 1983 ..... and received with sufficient particulars on .. 28th November 1983 ..... and shown on the plan(s) accompanying such application.

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

1. Access to the proposed development is inadequate and unsuitable for the additional traffic which would be generated.
2. Having regard to the limited area of the site and its relationship to existing residential properties, the proposed development would give rise to a density of development which would be prejudicial to the amenities and environment of the locality.

Dated ..... 22nd ..... day of ..... December ..... 19 83 .....

Signed..... *Kevin Bennett* .....

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 1310 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 858

Switchboard 0272-218811

GTN 2074

9361

~~1) C.B.~~  
~~2) MR~~  
~~3) TEAM 2~~  
~~4) 7/1~~  
CPO 18/5

RETURN TO MR. FOR  
SOMETIME REPORT

S J Brooker Esq Dip T&CP MRTPI  
Flatt and Mead (Land Dept)  
131 The Parade  
WATFORD  
Herts

Your reference SJB/KPW PLANNING DEPARTMENT  
Our reference DACORUM DISTRICT COUNCIL  
T/APP/A1910/A/84/11046/P2

Date	U.C.	B.C.	Admin.	File
17 MAY 1984				

Received	18 MAY 1984	rw
Comments		

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY MR SIDNEY McMULLEN  
APPLICATION NO:- 4/1535/83

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum District Council to refuse outline planning permission for the erection of 2 dwellings on land at the rear of 5 Shrublands Road, Berkhamsted. I have considered the written representations made by you and by the council and also those made by an interested person. I inspected the site on 17 April 1984.

2. From my inspection of the site and its surroundings and the written representations made I am of the opinion that the main issues are whether or not the proposed dwellings could be accommodated in this location without serious adverse effect upon the residential amenities and established character of the area and whether or not the proposed access would be suitable.

3. On behalf of your client you explain that the site currently accommodates 21 lock-up garages. The District Council granted outline permission for one dwelling and in November 1983 approved reserved matters for a 4 bedroom house with attached double garage. On land in the garden of No 5 Shrublands Road outside but immediately adjoining the present appeal site 5 parking spaces are to be made available for the elderly persons' home at 5 Shrublands Road and access to these spaces and the appeal site is from Shrublands Avenue.

4. You discount the Council's objection that the access for the development now proposed is inadequate and unsuitable for the additional traffic which would be generated on the grounds that the future use is likely to be considerably less than is possible with the current use of the site and little more than that for the already permitted development.

5. You also dispute the Council's second objection that because of the limited area of the site and its relationship to existing residential properties the building of 2 houses instead of only one would be prejudicial to the amenities and environment of the locality. You point out, and indicate in a purely illustrative sketch layout, that the site is large enough to provide adequate plots for a pair of modest sized houses, comparable with others in the town and you suggest that the Council's claim that the site is too small to provide a satisfactory level of amenities for the occupants is both unreasonable and contrary to the advice in Department's Circular 22/80.

6. You stress that the application is in outline and that the avoidance of overlooking and maintenance of privacy are matters which can be satisfactorily dealt with at the detailed design stage.

7. I note that the site is bordered to the south by the rear garden of No 50 Cross Oak Road on higher ground, to the east by the rear garden of 3 Shrublands Road, to the north by the rear gardens of houses in Shrublands Road on lower ground and to the west by the rear gardens of Nos 7 and 9 Shrublands Avenue. It is thus a back-land site and I accept the Council's submission that it is one where careful control of the style and scale of new building is called for to ensure that adequate environmental standards are maintained.

8. The constraints imposed by the limited area available and the enclosed setting bounded by the gardens of neighbouring dwellings and having no direct frontage to a public road are serious and it is my view that, however carefully designed and sited to limit their impact upon the surroundings, the proposed 2 dwellings would represent a cramped and intrusive form of development that would be out of character with the surroundings and seriously harm the residential amenities of nearby property. I do not doubt that with careful design and screening direct overlooking could be avoided but I think the occupants would suffer loss of privacy and disturbance through noise from the proximity of the new houses and the normal activities of their households within the relatively restricted curtilages and also from the associated coming and going of vehicles and pedestrians which would affect particularly the quiet enjoyment of the dwellings closest to the access drive. Given the existence of this access which previously served a number of lock-up garages, some of which have already been removed, I do not think its shortcomings for a residential purpose are sufficient in themselves to constitute a bar to the use of the site as proposed. Nevertheless I consider it to be a less than satisfactory access because of its position and length and this factor to my mind reinforces the other objections to the present proposal.

9. I have had regard to all other matters raised in the representations including the reference to advice in Circular 22/80 but do not find them of such relevance to the merits of this case as to affect my decision.

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

I am Sir

Your obedient Servant



E S FOSTER  
Inspector