



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

Andrew King and Associates
21 Gilpins Ride
BERKHAMSTED
Hertfordshire
HP4 2PD

18 MAY 1998
Your Ref: [redacted]
Our Ref:
T/APP/A1910/A/97/289146/P5

Date: 15 MAY 1998

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR & MRS A BELLAMY
APPLICATION NO: 4/01541/97/FUL

1. I have been appointed by the Secretary of State for the Environment, Transport and the Regions to determine this appeal against the decision of the Dacorum Borough Council to refuse planning permission in respect of an application for a detached bungalow and access on land at 11 Kingsdale Road, Berkhamsted. I conducted a hearing into the appeal and inspected the site on 28 April 1998. At the hearing, an application was made by the Dacorum Borough Council for an award of costs against Mr & Mrs A Bellamy. This is the subject of a separate letter.

2. The appeal site is part of the rear garden of an existing dwelling set within an established residential area. From what I have read in the written representations, seen at my inspection of the site, and from what was said at the hearing, I consider that there are two main issues in this case. The first is the effect of the proposed development on the character and appearance of the area; and the second is the effect on the living conditions of the occupants of neighbouring properties, with reference to privacy and visual impact.

3. The development plan for the area is the Hertfordshire County Structure Plan Review, Incorporating Approved Alterations (1991) and the Dacorum Borough Local Plan (1995). Structure Plan Policy 49 identifies Berkhamsted as a town where development should generally be concentrated, reflecting the more general intentions of Policies 57 and 71 directing residential development to urban areas. Whilst Structure Plan Policy 72 requires that development should be at as high a density as can be achieved, that is qualified by the requirement to achieve a high standard of design and create a good environment. Structure Plan intentions are further qualified by Policy 47, which requires that regard is paid in the assessment of proposals not only to the impact of individual developments, but also to the cumulative effects of development.

4. Local Plan Policy 1 echoes the intentions of Structure Plan Policy 49 regarding development in Berkhamsted, whilst Local Plan Policy 7 encourages appropriate residential development within residential areas. Policies 8, 9 and 101 of the Local Plan set out criteria to be met by appropriate residential development, in terms of the quality of development, environmental guidelines, and the density of development in residential areas, respectively. Policy 8 refers to specific features of proposals in relation to the site itself, adjoining property, and in the context of longer views, with a further requirement that proposals must avoid harm to the surrounding neighbourhood and adjoining properties through among other things, visual intrusion and loss of privacy. Policy 9 refers to environmental guidelines set out separately within the Local Plan, which give further detailed guidance on aspects of residential development. The need to protect the intrinsic character and amenity of areas from excessive dwelling densities is emphasised by Policy 101, which indicates that proposals will not be permitted if the dwelling density would adversely affect the amenity or existing character of the area due to a number of factors, including visual intrusion and loss of privacy.

5. Dealing with the first issue, Kingsdale Road is set within a well established residential area, and is a cul-de-sac of detached dwellings in spacious plots. Prominent features of the locality are the steeply sloping topography and the well established landscaping which includes many mature trees. There has been some infill-development off the south-western side of the head of the cul-de-sac, which lies within a hollow to the rear of the frontage properties at Nos 13 and 15 Kingsdale Road. This is well separated from the frontage development by the natural contours of the land, and from residential properties in adjoining roads to the rear by a belt of trees.

6. The appeal plot lies off the north western side of the head of the cul-de-sac, where there is a steep upward gradient to the rear of the frontage dwelling No 11 and the neighbouring property at No 9. The proposed access would be achieved by continuation of the private driveway to the rear garage of No 9 across the rear garden of that property and into the rear of No 11. The Council has made no objection to the proposed access. I note that the plot of No 9 had been sub-divided at the time of my site inspection, and whilst development of that rear plot does not form part of this application, the application plans indicate a spur for access to that area which is identified as a potential plot for a dwelling. Another dwelling, Gillams, accessed from Cross Oak Road, lies beyond the western boundary of the appeal site.

7. Both the appeal site and the adjoining plot at the rear of No 9 have been the subject of earlier proposals for residential development, individually and jointly. The most recent was a proposal for a single detached dwelling on the appeal site (No 4/0590/96), which was refused, and dismissed on appeal (Ref T/APP/A1910/A/96/271304/P2) in 1997.

8. The Council has expressed its concern at the proximity to other dwellings and steeply sloping nature of the land in which it considers that the cramped form of development which would result from this proposal would be detrimental to the character and amenities of the area. National guidance in Planning Policy Guidance Note 3 (PPG3) supports the full and effective use of urban land, consistent with protecting the character and amenity of existing residential areas, whilst acknowledging the need for sensitive planning control to achieve this. I have therefore given careful consideration to the size of the appeal plot in

relation to surrounding plot sizes, the scale of the proposed dwelling and its distance from surrounding properties.

9. I consider that the plot size compares favourably with adjoining sites, in particular the residual plot of No 11, the sub-divided plot of No 9, and Nos 14, 15 and Flintwood in Kingsdale Road, and Gillams. It also appears to me that sub-division of larger plots and backland development are significant features of the character of the locality in general. I note that there are also extant permissions for further similar development in Cross Oak Road and at No 5 Kingsdale Road.

10. Whilst the gradient of the appeal site would make any development within it relatively prominent, and would have some impact on the existing open appearance, I take the view that the modest scale of this proposed dwelling within the available plot makes allowance for this, without significant adverse impact upon long views and the surroundings in general. The proposed bungalow and its orientation would not be out of character with the existing mixture of property types and their informal layout within this locality.

11. In view of the plot size, and the adequate amenity space around the proposed dwelling which complies with the Council's environmental guidelines, I do not accept that the proposed development would appear cramped within this setting. At the hearing, the Council offered no objection to the proposal on grounds of development density. To my mind, the proposal would also allow sufficient space for retention of existing trees and planting, and scope for additional landscaping to avoid a harsh effect of tiered development to which the Council has referred. I consider this would enable the existing appearance of the locality to be maintained.

12. In the context of Local Plan Policy 8 and Policy 47 of the Structure Plan, I have also considered the cumulative impact of other possible development, which the Council considers would be difficult to resist. The most obvious example of this is the land to the rear of No 9. Whilst I accept that there is likely to be pressure to develop that site, any future proposal would have to be considered on its merits, and I do not consider that possibility is sufficient basis on which to deduce that the present proposal for the appeal site would be harmful to the character or appearance of the area, either individually or cumulatively. In my view, much would depend upon the nature and scale of the proposal, as in the case of this appeal site.

13. The above considerations lead me to conclude that the proposed development would not be significantly detrimental to the character and appearance of the area, and is consistent with the objectives of Structure Plan Policies 47 and 72, and Policy 101 of the Local Plan.

14. Turning to the second issue, it is necessary to consider both vertical and horizontal separation of the proposed bungalow from neighbouring dwellings, in order to evaluate the visual impact and effect upon privacy. The two properties relevant to these considerations are Gillams and No 11 Kingsdale Road. In the previous appeal relating to a proposal for a two storey dwelling on the appeal site, the Inspector did not consider that loss of privacy would be a seriously harmful outcome.

15. In this case, the proposed dwelling is single storey with no windows in the roof, and reduced in overall height by approximately 2 metres from the earlier proposal. The bungalow would be set at a level approximately 2 metres below the level of Gillams with a minimum

horizontal separation of approximately 15 metres. At my inspection of the site I saw that there are a number of large conifers along the western boundary within the appeal site. In these circumstances I consider the proposed dwelling would have no material impact upon the privacy of the occupants of Gillams, and from that property only the roof of the proposed dwelling would be visible from the first floor windows. I do not consider that would have any significantly detrimental impact on the outlook of the occupants of that property.

16. The proposed bungalow would be built on the terrace of the former tennis court, at a ground level approximately 3 metres above that of No 11. Three small windows are indicated in the eastern elevation of the proposed dwelling. One, a bathroom window would be obscurely glazed. At the hearing, you indicated that your clients would have no objection to a condition requiring the remaining two windows to be obscurely glazed in order to protect the privacy of the occupants of No 11. However, the Council did not consider such a requirement to be necessary. Whilst I could impose such a condition, in the particular circumstances of this site, I do not believe it would be effective.

17. My concern is the difference between the slab level of the proposed dwelling and the land level at the eastern boundary of the appeal site, as illustrated in cross section on the application plans. A 1.8 metre high timber screen fence is proposed along the eastern site boundary separating it from the rear garden of No 11. However, as the land level at the site boundary appears to be approximately 1.5 metres lower than the slab level of the proposed bungalow, the usual effectiveness of a boundary fence in protecting the privacy of residents at ground level would be largely lost in this case due to the gradient of the site. An occupant of the proposed dwelling walking along the eastern side of the dwelling would clearly overlook the rear garden of No 11, resulting in significant loss of privacy to the occupants of that dwelling. In addition, whilst there is a separation of approximately 28 metres between the rear elevation of No 11 and the side elevation of the proposed dwelling, which exceeds the Council's environmental guidelines of 23 metres for spacing of dwellings, I believe the elevated level of views from the appeal site and the ineffectiveness of the screen fencing due to the gradient of the land, would result in a significant loss of privacy in the rear facing rooms to the occupants of No 11. Whilst boundary planting is proposed, it would take many years to achieve sufficient height and maturity to overcome this problem.

18. In relation to visual impact of the proposed dwelling upon the occupants of No 11, due to the gradient of the land largely negating the screening value of the boundary fence, I consider that most of the side elevation of the proposed bungalow would be clearly visible from the rear of No 11. When viewed from that position, the difference in land levels between the appeal site boundary and the slab level of the proposed dwelling would result in the bungalow appearing largely above, rather than screened by the proposed boundary fence. I accept that the re-siting of the garage from the previous proposal would be less obtrusive in the north-west corner of the site than, as formerly, alongside the eastern boundary. The proposed dwelling would be approximately 2 metres lower in overall height than the two storey dwelling in the previous appeal, and you indicated at the hearing your clients' willingness to further reduce the ridge height of the proposed bungalow to the level of the two front gables. However, I do not consider that either the bungalow as originally proposed, or with the modified roof pitch, would adequately overcome the oppressive or overbearing appearance of the proposed dwelling when viewed from the rear of No 11. To my mind that effect would result from the effective absence of screening, and the difference in land levels

making the proposed dwelling appear more dominant due to its elevated position, notwithstanding the reduction in height compared with the previous proposal.

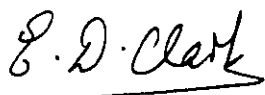
19. These considerations lead me to conclude on the second issue, that the proposed development would be seriously detrimental to the living conditions of the occupants of No 11 Kingsdale Road, with reference to privacy and visual impact, contrary to the intentions of Policy 8 of the Local Plan.

20. In addition to the matters addressed in the main issues, local residents expressed concern with regard to highway safety of the access and at the increased use of the access creating noise and disturbance affecting adjoining residents. This is an existing access and no highways objection has been made to the proposed increased use. I do not consider that the proposed single dwelling would have a significant effect with regard to highway safety, although the extension of the access and its increased use could, in my view, cause some additional noise and disturbance to the occupants of Nos 7 and 9 Kingsdale Road. Residents also queried the adequacy of the foul drainage system to accommodate flows from an additional dwelling. The Council did not support that view, and I am satisfied from your comments on discussions with the sewerage undertaker, that adequate provision for foul drainage could be made via the sewerage system in this case.

21. Whilst my conclusion on the first issue is favourable to the proposed development, the harmful effects I have identified in relation to the living conditions of the occupants of No 11 Kingsdale Road are sufficient to lead me to the overall conclusion that the appeal must fail. I have taken into account all other matters raised, including the planning history of this and neighbouring sites, and your endeavours to overcome the objections in the appeal decision relating to the previous development proposal for the site. However, neither these nor any other matters raised outweigh the considerations which have led to my overall conclusion.

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

Yours faithfully



E D Clark BSc MSc CChem MRSC MCIWEM
Inspector

APPEARANCES

FOR THE APPELLANTS

- Mr A E King BA(Hons) BPI - Andrew King and Associates, Chartered Town
MRTPI Planning and Architectural Consultants.
- Mr & Mrs A Bellamy - Appellants.

FOR THE LOCAL PLANNING AUTHORITY

- Mrs H Higgenbottam MRTPI - Senior Planning Officer, Dacorum Borough
Council.

INTERESTED PERSONS

- Mr K Gay - The Glade
Kingsdale Road
Berkhamsted
Hertfordshire
HP4 3BS.
- Mr N Comben - Gillams
Cross Oak Road
Berkhamsted
Hertfordshire
HP4 3NA.
- Mrs P Craig - 7 Kingsdale Road
Berkhamsted
Hertfordshire
HP4 3BS.

DOCUMENTS

- Document 1 - List of persons present at the Hearing.
- Document 2 - Council's letter of notification of the hearing, and list of
persons notified.
- Document 3 - Copy of Environmental Guidelines, Part 5 of the Dacorum
Borough Local Plan (1995).

PLANS

Plan A

- Application plans:
 - A(1) Location plan
 - A(2) Drawing No RS103A
 - A(3) Drawing No RS100B
 - A(4) Drawing No RS101C
 - A(5) Drawing No RS102B Supp.

**NORTHGATE
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PLANNING

Civic Centre Marlowes
Hemel Hempstead
Herts HP1 1HH

MR A KING
FOLLY BRIDGE HOUSE
BULBOURNE
TRING
HERTS
HP23 5QG

Applicant:
MR & MRS A BELLAMY
11 KINGSDALE ROAD
BERKHAMSTED
HERTS

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01541/97/FUL

ADJ 9 & 11, KINGSDALE ROAD, BERKHAMSTED, HERTS
DETACHED BUNGALOW AND ACCESS

Your application for full planning permission dated 29 September 1997 and received on 01 October 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 18 November 1997

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01541/97/FUL

Date of Decision: 18 November 1997

. The proposed development, by virtue of its close proximity to adjacent properties accentuated by the steeply sloping nature of the land, would result in a cramped form of development which would adversely affect the character and amenities of the area and would have a dominating effect on number 11 Kingsdale Road.