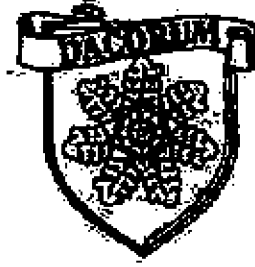


TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

Mrs S Banfield
366A High Street
Berkhamsted
Herts

Mr Paul Burdess
31 Ringshall
Berkhamsted
Herts HP4 1ND

To

.....Two Storey School House ..(Outline).....
.....
at 366A High Street, Berkhamsted, Herts
.....

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 4.10.88 and received with sufficient particulars on 5.10.88 and shown on the plan(s) accompanying such application..

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

The siting of the school building would be likely to be seriously injurious to the amenity of adjoining residential properties by reason of noise and disturbance.

Dated... First day of December 1988

Signed..... *[Handwritten Signature]*

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.

DEPARTMENT OF THE ENVIRONMENT



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PLANNING DEPARTMENT
DACORUM BOROUGH COUNCIL

GTN 2074
1374

CHIEF EXECUTIVE OFFICER
927 14 JUN 1989
File no.
Refer to *epo 14/6*

Paul Burdess Esq
Architect
31 Ringshall
BERKHAMSTED
Herts
HP4 1ND

Ack.		You		reference
C.P.O.	T.C.F.M.	Admin.	File	128
Received 14 JUN 1989				Our reference
Comments				Date
				T/APP/A1910/A/89/116939/P7
				12 JUN 89

Cleared

1/DA

2/AB

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MRS S BANFIELD
APPLICATION NO:- 4/1862/88

- I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Dacorum Borough Council to refuse outline planning permission for the erection of a 2-storey school house on land to the rear of 366A High Street, Berkhamsted. I have considered the written representations made by you, the Council and other interested persons. I have also considered those representations made directly by other interested persons to the Council which have been forwarded to me. I inspected the site on 8 May 1989.
- From my inspection of the site and its surroundings and the written representations made, I consider the main issue in determining this appeal is whether the proposed development would harm the amenities of those in adjoining residential properties by reason of noise and disturbance.
- No. 366A is a detached house located opposite the junction of High Street and Cross Oak Road, about ¼ mile west of the centre of Berkhamsted. It occupies an elongated and narrow plot and is set back substantially behind adjoining commercial and residential properties fronting onto the High Street. The appeal site comprises part of the rear garden of this property behind which are the grounds of The Sacred Heart Roman Catholic Church.
- The Council acknowledges that this is an area of primarily commercial properties with associated living accommodation above. No. 366A and neighbouring 366 are, however, both in residential use and the Council considers that occupiers of these properties are likely to be adversely affected by noise and disturbance arising from the proposed school building. In addition it is suggested that the retained rear garden of No. 366A would at times be used as an additional amenity for the school and this would increase the disturbance to those in No. 366.
- The proposed access to the school is from the adjoining church car park to the rear of the appeal site. This is a considerable distance away from the rear of either No. 366 or No. 366A and the substantial row of trees along the rear boundary of these properties would minimise the noise arising from the additional use of the car park. The school building itself would come within about 13 m of No. 366A and be nearly 30 m from the rear wall of No. 366. However, bearing in mind the limited number of pupils that this size of school could accommodate and the hours during which a school for children of this age would normally operate, I do not consider

that the level of noise coming from the building would unreasonably disturb people inside these houses. The school building would, of course, be closer to the garden areas. However, because of its larger rear garden, No. 366 would still have a substantial area which I consider would be relatively unaffected by noise from the school, and although the remaining rear garden of No. 366A would be much smaller, I consider the noise levels from the school could be kept to acceptable levels by ensuring that the building had no windows on the flank wall facing this garden.

6. The outline plans for the development show an amenity area to the rear of the school, and in the absence of any other such area within the appeal site it is reasonable to assume this will be used as a play area for the children. However, as the playtimes would only occupy a small part of the time the children were at the school, and the school is in any case only intended for very young children between the ages of 2 and 5, I do not consider the limited use of this play area would result in an unacceptable level of noise and disturbance in what is already an area of mixed commercial uses. As to the final concern of the Council about additional use of the retained rear garden of No. 366A, although the plans show a gate in the proposed fence between the school and the rear garden of this property, there is no evidence put forward to suggest that this additional use is in fact likely to occur. For all these various reasons I have therefore concluded that this proposal would not harm the amenities of those in adjoining residential properties.

7. I therefore propose to allow this appeal. In addition to the standard conditions which accompany outline permissions, I have also considered those suggested by the Council, and in doing so taken account of advice in Circular 1/85. Suggested condition 2 proposes a sound insulation scheme but this is something I consider would be dealt with more appropriately through Building Regulations approval. The aim of suggested conditions 3 and 4 seems to be to minimise disturbance to neighbours by limiting use of the premises to schooling purposes only and restricting the days and hours of its use. In my view this aim can be achieved by imposing just the restriction to schooling purposes and thereby not preventing the occasional school related activities that would take place out of normal school hours. As to suggested condition 5 concerning the number of children at the school, this is something I consider is better dealt with through other Local Authority powers.

8. Suggested condition 6 seeks to prevent the rear garden of No. 366A being used for schooling purposes. This is, however, not part of the appeal site and there is no evidence to suggest that this use is likely to occur. On the other hand in order to minimise disturbance to neighbours I do accept the need for suggested condition 7 restricting the use of the amenity area to the rear of the building as a play area. The final condition suggested by the Council would prevent any windows or doors being inserted on the elevation of the building which would face No. 366A. As I have indicated I accept the need to avoid windows on this flank wall to minimise the level of noise reaching No. 366A. However, I believe this could be achieved by just restricting the insertion of windows, thereby allowing a door to be provided for both access to the play area and as a means of fire escape. Finally, in view of your client's agreement with the adjoining church regarding access, the Council has not felt it necessary to impose a condition on this. However, were this arrangement not to be continued at any time provision of access from High Street through the garden of No. 366A would involve vehicles stopping and parking on this very busy road and would, in my view, create a totally unacceptable road safety hazard. As a result I intend to impose a condition which only allows public access to the appeal site from the adjoining church car park.

9. I have taken into account all the other matters raised in the representations but none of these are sufficiently significant to lead me to a different decision.

10. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant outline planning permission for the erection of a 2-storey school house on land to the rear of 366A High Street, Berkhamsted in accordance with the terms of the application (No. 4/1862/88) dated 4 October 1988 and the plans submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the building, 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 either before the expiration of 5 years from the date of this letter, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

3. notwithstanding the provisions of the Schedule Part D of the Use Classes Order 1987, the building shall be used for no other purpose than the instruction of the pupils and related school activities;

4. the amenity area on the south of the appeal site shall be used only as a play area for the children;

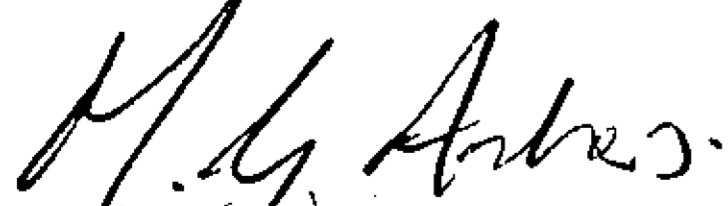
5. no windows shall be inserted in the south facing flank wall of the proposed building;

6. the only public access to the appeal site shall be from the adjoining car park to the north.

11. 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 consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period. The developer's attention is drawn to the enclosed note relating to the requirements of The Buildings (Disabled People) Regulations 1987.

12. 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 Sir
Your obedient Servant



M G ANKERS BA(Hons) MSc DipTP MRTPI
Inspector

ENC

It is advised that approximately 30 to 35 cars would be anticipated in the transport of pupils using the proposed school house. Children would arrive in the morning and be collected at noon.

The use of the Church hall for a playschool was granted in the late 1960's and clearly in recent years it would appear the school has provided an important community facility. The level of vehicular movements associated with the current use are considerable, but the availability of car parking in an otherwise congested area in Park Street ensures the necessary turning facilities within the Church grounds. In view of this established practice, it is likely that the location of the proposed school building would ensure this practice would continue and would not encourage parking within the front of No. 366A. In the circumstances, the main issue relates to the siting of the building and its impact upon residential amenity. Nos. 366 and 366A are the only dwellinghouses in the immediate vicinity. Other properties are commercial although there is associated living accommodation. The close proximity of the proposed building to No. 366 is unsatisfactory and there is no guarantee that in the future the owner of the whole site would retain No. 366A. Occupiers of both properties are likely to be affected by the use of the building by reason of noise and disturbance. It is most likely that the retained rear garden of NO. 366A would be used as an amenity area for the school at times to the detriment of Nos. 366.

RECOMMENDATION

4/1762/88

That planning permission be GRANTED (on form DC3) subject to the following conditions:

1. The development to which this permission relates shall be begun within a period of five years commencing on the date of this notice.
2. The materials used externally shall match both in colour and texture those on the existing building of which this development shall form a part.

4/1862/88

That planning permission be REFUSED (on form DC4) for the following reason:

The siting of the school building would be likely to be seriously injurious to the amenity of adjoining residential properties by reason of noise and disturbance.

* * *