



MINISTRY OF HOUSING & LOCAL GOVERNMENT

Whitehall, LONDON, S.W.1

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Please address any reply to

THE SECRETARY

and quote: APP/839/A/98595

Your reference:

25 NOV 1965

Sir,

Town and Country Planning Act 1962: Section 23
Appeal by Mr. R. Rolf

1. I am directed by the Minister of Housing and Local Government to refer to the report of his Inspector, Mr. J. R. M. Poole, A.R.I.B.A., A.M.T.P.I., M.R.S.H., on the local inquiry into your appeal against the refusal of the Berkhamsted Urban District Council, acting on behalf of the Hertfordshire County Council, to permit the residential development of land at the rear of Berkhamsted Place, Berkhamsted.

2. The Inspector, a copy of whose report is enclosed, concluded that because the appeal site was near the crest of the south-facing slopes of the valley in which Berkhamsted lay the woodland on it formed an important beautiful feature of the landscape. That trees had been removed from the site in the past was unfortunate. Residential development of the site would involve the felling of more trees there and this would materially spoil the beauty of this woodland feature. He noted the extent to which new residential development had taken place south of the site up towards the skyline. It should not extend into the appeal site. From the public interest viewpoint these two factors were decisive and outweighed other considerations. He recommended that the appeal be dismissed.

3. It is noted that the appeal site has been included by the local planning authority in a proposed extension of the metropolitan green belt, which is now before the Minister as part of the review of the development plan. This has not yet been formally approved by the Minister, but in the area of the proposed green belt extension the local planning authority have, with his general agreement, been exercising control of development in accordance with green belt policy.

4. The Minister agrees with the Inspector's conclusions and accepts his recommendation; accordingly he hereby dismisses your appeal.

I am, Sir,
Your obedient Servant,

H. C. HOLLINGTON

(H. C. HOLLINGTON)

Authorised by the Minister
to sign in that behalf.

R. Rolf Esq.
Eyton Old Hall
NEAR LEOMINSTER
Hertfordshire

HERTFORDSHIRE COUNTY COUNCIL
BERKHAMSTED URBAN DISTRICT COUNCIL

APPEAL

by

MR. RONALD ROLFE

Inspector: J. R. M. Poole, A.R.I.B.A., A.M.T.P.I., M.R.S.H.
Date of Inquiry: 19th August 1965.
File No: APP/839/A/98595.

Whitehall,

London, S.W.1.

8th September 1965

To The Right Honourable Richard Crossman, O.B.E., M.P.,
Minister of Housing and Local Government.

Sir,

I have the honour to report that on Thursday 19th August 1965 I held an inquiry at the Berkhamsted Urban District Council offices, Civic Centre, Berkhamsted into an appeal by Mr. Ronald Rolfe under section 23 of the Town and Country Planning Act 1962, against the refusal of the Berkhamsted Urban District Council, acting on behalf of the Hertfordshire County Council, to permit residential development on about 7 acres of land at the back of Berkhamsted Place. This appeal was heard consecutively to that arranged into an appeal by Mrs. F. G. Stafford, reference APP/839/A/89670.

1. The Reasons for Refusal are:-

- "1. The site of the proposed development is within a proposed extension of the Metropolitan Green Belt in which it is the policy of the local planning authority not to allow development unless it is required for agricultural or allied purposes. No such need has been proved.
2. The development of the land would involve the removal of a large number of trees which are covered by the Tree Preservation Order and which, due to their position on high ground above the town, constitute an important amenity feature."

2. This report includes a description of the appeal site and surroundings, the gist of the representations made at the inquiry, my findings of fact, conclusions and recommendation. Lists of appearances, documents and plans are attached.

THE SITE AND SURROUNDINGS

1. The main shopping and business street of Berkhamsted is a long straight street, part of a principal traffic route, aligned almost north-west to south-east at the bottom of a valley.
2. The appeal site consists of an irregular shaped area of woodland near the crest of the south facing slopes of the valley and about 700 yards north of the main street of the town.
3. Much of the site is almost flat and has a slight slope down to the south.
4. South of the site, on land sloping down steeply in this direction towards the central area of the town, is mainly residential development much of which consists of recently built dwellings facing new estate roads.
5. South-west of the site is residential development and extending north-west from its western boundary is farmland.
6. North of the minor and eastern part of the site is the curtilage of Berkhamsted Place just north of which are a few old dwellings.
7. South-east of the site is Castle Hill, a residential road, on to which face detached dwellinghouses.

THE CASE FOR THE APPELLANT

8. The appellant owns the appeal site which extends to about $7\frac{1}{2}$ acres.
9. In the outline application dated 23rd January 1965 submitted on his behalf the proposed development was described as "residential development". The application was accompanied by two plans [plans A and B] one of which [plan B] indicates the site divided into 43 plots. However, the appellant was unaware of this and he considers that a smaller number of plots would result in a much better form of development. He asks that his application be treated as described in writing in the form of application leaving it to the Minister, should the appeal be allowed, to determine by condition the maximum number of dwellings appropriate.
10. The appellant feels, perhaps incorrectly, that there is some public prejudice against his sale of Berkhamsted Place after owning it for 15 years and then making application to develop his land outside the 2 acres of ground sold with the house.
11. He is a graduate and one of the subjects of his degree was History of Art. This lays emphasis on architecture in which he has a great interest. He bought Berkhamsted Place in the first instance because of its historical associations and its 16/17/18th century architecture.
12. He completed the purchase of the house on 1st February 1950. He then occupied it with his mother until the beginning of 1953. He found it an extremely difficult house in which to live in a civilised manner.
13. After he left the house it remained empty for about a year when it suffered considerable damage. It was then let in flats the rents being low because the appellant knew from his personal experience that living in the house was more of a penance than a pleasure.
14. Until the severe winter of 1963 the house was occupied but the standard of the tenants had steadily declined. In 1962 failure of a tenant to stoke the boiler caused flooding with the result that the council were called upon to house the tenants.
15. When the tenants left the house the appellant applied for permission to develop 4 sites to the south-east of it the proceeds of the sale of which would enable the house to be converted into 3 dwelling units. The price of the land was £4,500, the cost of conversion £4,387. The application W/1394/63 after delay was refused.
16. During this period of delay, in which the appellant informed the chairman of the council of the damage which was being caused to the house by intruders, every window pane appeared to have been maliciously broken by someone who apparently had a grudge against him or the house. The lead had been stripped from the roof.
17. Finally the appellant sold the house with about 2 acres of land to Mrs. Stafford. He is extremely grieved at the sad, perhaps hopeless state of the house now, which has resulted mainly from delays in reaching decisions on the part of the local planning authority.
18. Although Berkhamsted Place is now owned by Mrs. Stafford, not by the appellant, he has felt it necessary to give the above background information in connection with his own appeal.
19. The first reason for refusal of his application is inadmissible. The site is in a proposed green belt yet the council apply the same conditions as if it were in an approved green belt. The appeal site is not in the green belt and, therefore, any restrictions which may be imposed under that heading are totally irrelevant. No proposed alteration in the law can be allowed to impose any restrictions or curtail in any way the freedom of the individual in any sphere.

20. If the proposed alteration is, when passed into law, to restrict the rights of the individual, then this restriction can only be imposed if and when it has been passed into law.
21. As the proposed extension of the Metropolitan Green Belt has not been passed to include the development area in question the appellant suggests a rejection on these grounds is totally inadmissible and without legal precedent. Nor could any Court of law uphold it as a reason valid for rejection.
22. The second reason for refusal is most inaccurate. The tree preservation order was imposed in 1950. The appellant was instrumental in this in order to preserve the amenities of the grounds of the house which he bought in the mid-summer of 1949. He also bought a number of trees immediately at the back of the garden to preserve them from timber merchants to whom they had been sold. Subsequently, however, the only trees preserved, other than those he bought, were those in the Lime Avenue on each side of the public footpath to the station.
23. The council gave permission in 1950 to the timber merchants Messrs. J. Halsey and Son to fell all the marked trees in the woodland which forms part of the appeal site. This was done in the autumn and winter of 1950/1, together with all free standing marked trees south of the house belonging at that time to Kempster Brothers and sold subsequently to Messrs. Constantine.
24. Therefore, the suggestion that the trees at present standing in the woodland area forming the appeal site have any relation to the tree preservation order is completely misleading.
25. There are a few specimen trees which his original application took good care to preserve. The trees which he bought back from the timber merchants, to whom the previous owner Mrs. Russell Drapes had sold them, are now on the land the subject of Mrs. Stafford's present appeal.
26. The rest of the trees are scrubby and lacking any claim to consideration. The clearance of the present woodland far from depriving the town of any amenity would be a salutary tidying up of the area which has for many years been open to the depredations of any townsman anxious to obtain cheap fuel in the winter, even to the extent of felling young trees up to a foot across.
27. The proposed development would affect none or only a very few and not as the council contend a large number of trees covered by the tree preservation order.
28. An attempt was made to make him, as the new owner, responsible for replanting the woodland to replace trees felled by the timber merchants who paid the previous owner for them. The council were persuaded that this would be inequitable since he was the loser by reason of the trees having been removed.
29. Planting on a new estate where most house owners, irrespective of the builder, tend to plant a few specimen trees would do more for Berkhamsted's skyline in twenty years' time than the present ragged nondescript and irregular line of scrubby woodland.
30. If his previous application made in 1963 to build only 28 houses on the site had been passed, the development would unequivocally have been for the general improvement of the appearance of Berkhamsted. Particularly so if the dwellings had been restricted to the Colt type of wood house which fits in so well in thin woodland.
31. The application for 43 houses was made by the appellant's agent, in conjunction with Messrs. Constantine. It was then thought a good thing to link the proposed development with theirs on land to the south. The appellant had not seen the plans until he decided to tackle the appeal himself but he would not object to a modification to a lower density of development.

32. However, he consulted the Town Clerk of Berkhamsted in 1963 who suggested that a density of 4 houses to the acre was low and that the Minister had, at that time, advised all local authorities that he would like to see a higher density in towns.
33. It is admitted by the council in their observations that there is development on the south, west, and east of Berkhamsted Place and the appeal site. This leaves the appeal site as a vacuum. The natural order of gap infilling demands it should be filled. In this instance the superb position requires good quality residential development and there is the important fact that it is within five minutes' walk of the station where electrification makes the area a logical 'must' for development and thereafter settlement by the commuter.
34. Technically the site is perhaps outside the town area. But geographically, by being a logical infilling of existing and continuing development and by its close proximity to the new electrified railway and its strong interest to new and existing commuters it must actually lie well within the town area.
35. The tree preservation order is a resuscitated dead letter, the trees which were its *raison d'etre* having been felled in this area the year after it was imposed.
36. The objection of an unnecessarily long cul-de-sac running due west is now removed by connecting up to roads in the Constantine development to the south.
37. Judicious retention of hedgerows and screening shrubbery to the south of the site would make development all but invisible from the valley where the greater part of Berkhamsted lies.
38. The proposed development would not be contrary to the town map or the amenities and character of Berkhamsted.
39. Berkhamsted is not in the green belt whatever may be proposed.
40. The development in no way affects the landscape area surrounding Berkhamsted which is well provided in its commons and the adjacent Ashridge Estate with natural as distinct from agricultural scenic value.
41. The narrow belt between Berkhamsted and Hemel Hempstead is not affected or encroached upon by this proposed development.
42. The character of Berkhamsted as a small country town is not likely to be in any way affected except that its social status may be raised by a commuter addition to its population. Additional development near a station on an electrified line is bound to attract more residents.
43. Location of the development on high ground is an advantage to the residents. Provided there is variety of judicious planting it can be a distinct advantage to the skyline and therefore to the amenities of the town.
44. The appellant is sure that the council's officials would have no personal objections to the application and would indeed welcome what in effect could only mean additional rates and improvements to the town's social amenities.
45. A town rising in population and providing new houses for residents or newcomers is a thriving town, and a thriving town should be (though not necessarily) a happy town.
46. In summary, the proposed development would be:-
- (a) A logical infilling where new development already exists or is proceeding west, south and east.

- (b) A great help to commuters using newly electrified line to London business.
- (c) A logical area for residential accommodation close to the station.
- (d) An improvement to the amenities of the town in bringing poor quality and depredated woodland into a use which would envisage decorative replanting to be enjoyed in the future and provide good houses in a miniature garden city within five years.

47. The development would not:-

- (a) be contrary to green belt regulations because the site is not in the green belt, should not be in the green belt and should not, therefore, be treated as though it were;
- (b) be prejudicial to the town's amenities by felling of trees covered by the tree preservation order because all the marked trees were felled in 1950-1951.

48. It would be possible for the development to be carried out at a residential density to be decided by the Minister. The site is physically suitable for the purpose, the necessary services being readily available.

THE CASE FOR THE LOCAL PLANNING AUTHORITY

49. The appeal site forms part of the original grounds of Berkhamsted Place which stands on high ground above the northern slopes of the valley of the River Bulbourne in which the town of Berkhamsted was established.

50. Berkhamsted, which is situate in West Hertfordshire on the fringe of the Chiltern Hills, is an attractive town, mainly residential in character and is noted for its public schools. The town also contains some industries of which the most important are concerned with woodworking and the production of animal insecticides.

51. In the valley, which runs in a north-westerly/south-easterly direction, are the trunk road, A.41, the Grand Junction Canal and the Euston main railway line. The town has developed along the valley for a distance of about three miles and the parish church, civic centre, boys' public school and the principal commercial and industrial buildings are on the valley floor. Later residential development has spread up the valley slopes with the greater amount on the south-west side.

52. In the centre of the town, Lower Kings Road and Castle Street run from High Street (which is part of the trunk road) and join Station Road between the canal and the railway in the vicinity of the railway station. There are two narrow bridges under the railway at this point and immediately on the north side of the railway are the ruins of Berkhamsted Castle within a site comprising 14.6 acres. The castle, which dates from the twelfth century, is maintained by the Ministry of Works as an Ancient Monument.

53. The road on the west side of the castle, known as Castle Hill, runs almost north for 300 yards from the railway bridge, then turns north-west and rises sharply giving access to Berkhamsted Place, Castle Hill Farm and other nearby buildings which are residential in use.

54. Berkhamsted Place, which is about 500 yards from the castle, is a three storey building with its longer side on the axis of Castle Hill. The farm and other buildings lie on its northern side. The grounds, which consist mostly of woodland, run along the ridge for a distance of about 450 yards.

55. On the south-west side of Berkhamsted Place is the Park Estate with the Dellfield Estate to the west and Bridgewater Road/Castle Hill development to the east.

On the north-west, north and north-east sides there is agricultural land which extends to Berkhamsted Common nearly a mile away.

56. In the town map approved by the Minister in December, 1958, Berkhamsted Place is included in an area defined as house with large grounds. The main area of the grounds, including the appeal site, is in a 'white' area subject to a tree preservation order.

The residential development referred to in the preceding paragraphs is zoned residential and the agricultural land is in a 'white' area.

In the review development plan submitted in December, 1963, the public inquiry into which has just concluded, the residential areas remain as before and the 'white' land is within a proposed extension of the Metropolitan Green Belt. To the east a site is shown for a county secondary school with playing fields.

57. Four applications have been made for the development of land attached to Berkhamsted Place as follows:-

W/1394/63

Conversion of Berkhamsted Place into three dwellings and the erection of four detached dwellings on the south-west side of the house.

The application was refused on the 20th December, 1963 for the following reasons:-

- "1. The site is outside the residential areas in the Berkhamsted Town Map and its development for residential purposes would, therefore, be contrary to the provisions of the town map.
2. The site is within an area of woodland (which is the subject of a tree preservation order) on high ground in relation to the town and the proposed development would be injurious to the visual amenities of the area by reason of the necessary felling of the whole, or a large number, of the trees on the site, by the erection of buildings thereon."

W/1462/63

Erection of 28 detached houses on seven acres.

The application was refused on the 20th September, 1963 for the following reasons:-

1. and 2. The same as 1. and 2. in W/1394/63.
3. The proposed development would be served by a cul-de-sac of excessive length which would result in undue inconvenience and cost in the provision of services of all kinds to the development when occupied.

W/1043/64

Alternative proposals for the development of a site of 1.9 acres including the actual site of Berkhamsted Place by

- (a) 17 flats in two and three storey blocks and
- (b) by 10 detached houses.

W/226/65

Residential development of seven acres. The plan accompanying the application indicates the layout of the land with 43 plots. The application was refused on the 21st April, 1965.

This application is the subject of this appeal.

58. Berkhamsted Place is included within a List of Buildings of Special Architectural or Historic Interest prepared by the then Minister of Town and Country Planning on the 29th July, 1950. In the provisional list prepared by the Ministry in May, 1949, the description of Berkhamsted Place is as follows:-

A Tudor house, gabled and 3 storeys high, with a more or less symmetrical entrance front which is approached from an avenue of trees on the east with a carriageway, or from an avenue and footpath on the south-east; the latter probably led in an almost unbroken line to the church, in earlier days.

The house appears to be largely closed and unused. Its facades are covered in brown roughcast and this takes away a great deal of the life from its proportions, but the mullioned windows preserve its dignity and uncompromising appearance, also the stone gate piers and the metal gates which open on to the front courtyards and the main door to the inner courtyard of the house. The farm buildings are late Victorian and are not included.

59. The appeal site abuts the north-west and south-west sides of the site of W/1043/64 and extends westwards to the public footpath which runs along the western boundary of the Park Estate. The site is of irregular shape and covers about 7.35 acres. It is almost wholly woodland containing a mixture of mostly deciduous trees. The plan shows a road running from Castle Hill to the western end of the site over a cul-de-sac on the north side and a road connecting with the Park Estate on the south side. The plan accompanying the application under consideration shows the site divided into 43 plots which mainly have frontages of between 45 feet and 50 feet although some plots are wider. Very few of the trees could be retained in development of this character so that not only would the woodlands be lost but the proposed houses would be very prominently visible along the whole of the site.

60. The proposed development would therefore be

- (a) contrary to the town map both approved and review,
- (b) detrimental to the amenities and character of Berkhamsted since the site is such a prominent one visible from over a wide area.

61. The approved development plan provides for a population of just over 15,000 for the town. At the 1961 census the population was 13,771 and the review development plan provides for the population to rise to approximately 17,400 by 1973. This increase has been largely achieved by the use of land for residential purposes not previously shown for this purpose within the perimeter of the built-up area by redevelopment of large gardens and by increased densities. Some of the development provided for in the review town map has in fact already taken place.

62. As Berkhamsted Place stands on the crest of land which rises from the south-east and north and its grounds largely comprise woodland, it is in a very important position in relation to the town and the woodland forms a very prominent feature of the locality. In 1950 the Berkhamsted Urban District Council made a tree preservation order in respect of the trees on 45 acres which includes the appeal site.

63. The boundaries of the development area of the town are affected by the following considerations:-

- (a) The location of Berkhamsted in a proposed extension of the Metropolitan Green Belt.
- (b) The proximity of the Chilterns Area of Great Landscape Value which embraces the Ashridge Estate and Berkhamsted Common.

- (c) The narrow belt between the eastern part of Berkhamsted and the western part of Hemel Hempstead New Town which is only 2 miles wide.
- (d) The character of Berkhamsted which is that of a small country town.

64. While it is not suggested that the development proposed in the application under consideration would represent a substantial addition to the town in terms of numbers of dwellings proposed, the development is unacceptable by reason of:-

- (a) The location of the site in the proposed green belt outside the residential area.
- (b) The location of the site on high ground of land the subject of a tree preservation order.
- (c) The adverse effect which the proposed development would have on the amenities of the area.

65. The local planning authority accept the site is physically suitable for the proposed development and that the necessary services are readily available. Although the site is shown in the approved development plan as being in a 'white' area it is nevertheless in a proposed extension of the Metropolitan Green Belt. The local planning authority have, for purposes of development control in areas the subject of proposed green belts, followed the expressed wishes of the Minister as set out in The Ministry of Housing and Local Government Circular No. 42/55, paragraph No. 9.

66. It may be that many of the trees on the site were felled but the dense woodland on the site provides a most important amenity feature at the crest of the hill.

67. The site is not within an area allocated for residential development. It is within an area where it is the approved development plan policy that the existing uses shall for the most part remain undisturbed.

68. There is no overriding need for the appeal site to be used for residential purposes. There is no urgent demand which warrants its use in the manner proposed.

CASES FOR INTERESTED PERSONS

69. Mrs. A. N. Clark, a local resident, represented Geographical Publications Limited, J. Quayle Esq., and the East Hertfordshire Archaeological Society.

Messrs. Constantine have developed the southern slopes south of the appeal site. If the appellant sold his land to them he would not be in a position to control the form of development they may wish to carry out. The proposed development would clearly not be 'infilling' and there is no good reason why it should be allowed.

FINDINGS OF FACT

70. I find the following facts:-

- (1) The appeal site, dense woodland about 7.35 acres in area, is near the crest of the south facing slopes of the valley in which the town of Berkhamsted is situated.
- (2) South of the site, on land sloping down steeply in this direction towards the central area of the town, is mainly residential development much of which consists of recently built dwellings.
- (3) South-west of the site is residential development and extending north-west from its western boundary is farmland.

- (4) North-east of the major and western part of the site is farmland.
- (5) North of the minor and eastern part of the site is the present curtilage of Berkhamsted Place just north of which are a few old dwellings of pleasant external appearance.
- (6) South-east of the site is Castle Hill, a residential road sloping down in this direction, on to which face detached dwellinghouses.
- (7) On the development plan approved by the Minister in 1958 the site is shown as being in a 'white' area: the site is also within an area proposed by the local planning authority as an extension of the Metropolitan Green Belt.
- (8) The site is within a larger area covered by a confirmed tree preservation order.
- (9) Many trees were removed from the site during 1950 and 1951.
- (10) In the outline application for planning permission under consideration the proposed development was described as "residential development".
- (11) It was accompanied by two plans one of which indicated the site formed into 43 plots.
- (12) These plots are shown fronting proposed roads on the site to which access would be gained from Castle Hill and from an estate road south of the site.
- (13) At the inquiry the appellant stated he would be willing to accept a consent allowing residential development of the site but with less than 43 dwellings.
- (14) The site is physically suitable for residential development and the necessary services are readily available.

CONCLUSIONS

71. On consideration of the above facts I am of the opinion that because the appeal site is near the crest of the south facing slopes of the valley in which Berkhamsted lies the woodland on it forms an important beautiful feature of the landscape. That trees have been removed from the site in the past is unfortunate. Residential development of the site would involve the felling of more trees there and this would materially spoil the beauty of this woodland feature. I note the extent to which new residential development has taken place south of the site up towards the skyline. It should not extend into the appeal site. From the public interest viewpoint these two factors are decisive and outweigh other considerations.

RECOMMENDATION

72. That the appeal be dismissed.

I have the honour to be,
Sir,
Your obedient servant,

J. R. M. POOLE

APPEARANCES

FOR THE APPELLANT

Mr. R. Rolfe,

- The Appellant.

FOR THE PLANNING AUTHORITY

Mr. S. C. Redding,

- The Town Clerk, Berkhamsted Urban District Council.

He called:

Mr. A. F. Russell, M.T.P.I.,
A.R.I.B.A., A.I.L.A.

- Divisional Planning Officer, West Division, Hertfordshire County Council.

INTERESTED PERSONS

Mrs. A. N. Clark,

- A local resident.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

" 2 - The council's notice of the inquiry.

PLANS

PLAN A - The site.

" B - The site showing proposed road and plot layout.

" C - Sketch diagram illustrating the appellant's contention that the proposed development would be infilling.