



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Hertfordshire
HP23 5QG

Your Ref:

Our Ref:

T/APP/A1910/A/95/251634/P7

4/0023/95

Date:	10 JAN 1996	PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL
Ref:		
Received:	11 JAN 1996	
1990, SECTIONS 78 AND 322 AND SECTION 250(5)		

Dear Sirs

TOWN AND COUNTRY PLANNING ACT
SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPLICATION FOR COSTS BY MR B CARRELL

1. I refer to the application for an award of costs against Dacorum Borough Council which was made at the hearing held at Civic Centre, Hemel Hempstead on 28 November 1995. The hearing was in connection with an appeal by Mr B Carrell against a refusal of planning permission on an application for the erection of a boundary wall, entrance gates and landscaping at Chipperfield House, Tower Hill, Chipperfield. A copy of my appeal decision letter is enclosed.
2. In support of the application it was said that the matter had to be appealed once before. Although that appeal had been dismissed, it pointed the way to an alternative scheme which would be acceptable. The Inspector had said that replacement of the existing entrance arrangements would not be inappropriate development in the Green Belt. This statement was taken as the basis for detailed negotiation with technical officers of the Council. The resulting scheme formed the subject of the application which is the subject of this appeal. The scheme was supported at Planning Committee by the Planning Officer and was recommended for approval.
3. It is acknowledged that the Committee does not have to follow the officer recommendation, but there must be sound and clear cut planning reasons for doing so. In the opinion of the appellant there were no sound and clear cut reasons for ignoring the advice of the Planning Officer. The Chief Planning Officer correctly advised the Committee that planning permission is not required for removal of the roadside hedge. However, the majority of the Council's rebuttal of the appeal relates to retention of the hedge. This could be removed regardless of the proposed development. The conduct of the Council was unreasonable and this is the basis for the application for an award of costs.
4. In response, for Dacorum Borough Council it was said the two reasons for refusal both relate to the visual impact of the scheme. Whereas the decision was taken contrary to the Chief Planning Officer's advice, Circular 8/93 says that a Council is not bound to follow that advice. This is a finely balanced case where there had been a previous appeal on a



RECYCLED PAPER

similar case, which had been dismissed. The comments of the earlier Inspector referred to by the appellant relate only to Green Belt policy; this aspect has not been commented upon by the Council.

5. The size and visual impact of the present proposal would be similar to that of the previous scheme. Mature trees and hedges are a significant part of the conservation area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering proposals for new development in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. The loss of 30m of hedge would bring about a change in the character and appearance of Tower Hill. This would injure the visual amenity of the area, which would be very noticeable from the lane opposite the entrance. The proposed replanting of holly at 450mm high will take some time to become established and to eventually bring about some amelioration of the visual impact. The Council was entirely justified in refusing the application for the reasons given, and there is no justification for an award of costs.

6. The application for costs falls to be determined in accordance with the advice contained in Circular 8/93 and all the relevant circumstances of the appeal, irrespective of its outcome, and costs may only be awarded against a party who has behaved unreasonably.

7. I consider that although the Planning Committee did not accept the recommendation of the Chief Planning Officer, the reasons for refusal relate to sound planning reasons; these being the visual impact of the proposed scheme on this rural area, and the effect on the character and appearance of the conservation area. These are clearly matters of judgement and opinion. The present proposal is less grandiose than the earlier scheme, but the general scale and proportions could be seen to produce a similar impact. Whereas the Chief Planning Officer took one view, in this case I consider it was not unreasonable for the Committee to take another view. Although this is a case which rests upon a balance of opinion, the wording given for the reasons for refusal are clear cut, and relate very closely to the wording used by the Inspector when dismissing the earlier appeal.

8. The evidence produced at the hearing to support the reasons for refusal relied heavily upon the consequential loss of hedgerow, and the impact this would have on the conservation area. Whereas the hedgerow might be removed without the need for planning permission, unless the new entrance is built its loss is not inevitable. In my view it was reasonable of the authority to assume that the hedge is, and would continue to be, a significant feature in the conservation area, the loss of which had to be taken into account. Indeed, the evidence produced on behalf of your clients did not refute this, and went on to emphasise that the majority of the hedge would remain and new planting would take place to ensure the proposed entrance blended in with it.

9. The comment in paragraph 11 of the decision letter for the previous appeal relates only to whether a new entrance could, in principle, be regarded as appropriate development in the Green Belt; it does not suggest that it could be appropriate in the conservation area. Paragraphs 12 and 13 of that letter clearly set out that the scale and design of the scheme would have been unacceptable in this setting. The scheme which is the subject of this appeal is of very similar scale and proportions, albeit with different detailing and materials. Therefore, the previous appeal decision did not indicate that a scheme along the lines

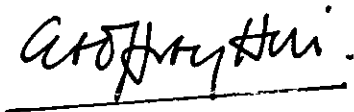
submitted was bound to succeed. In my opinion, careful judgement was needed in determining this proposal.

10. Taking account of the advice in paragraphs 9 and 16 of Annex 3 to Circular 8/93, I consider that the Council did not act unreasonably in refusing the application. I therefore conclude that the application for an award of costs is not justified.

FORMAL DECISION

11. For the above reasons, and in exercise of the powers transferred to me, I hereby refuse the application by Mr B Carrell for an award of costs against Dacorum Borough Council.

Yours faithfully



GEOFFREY HILL BSc DipTP MRTPI
Inspector

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Please forward to Planning - TAO Jane Custance
The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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The Solicitor to the Council
Dacorum Borough Council
Civic Centre
Hemel Hempstead
Hertfordshire
HP1 1HH

Your Ref: 4/0023/95
Our Ref: T/APP/A1910/A/95/251634/P7

Date: 10 JAN 1996

PLANNING DEPARTMENT						
DACORUM BOROUGH COUNCIL						
Ref.						App.
ICP	TOP	DP	DC	TC	APP	File
Received						11 JAN 1996
COMMENTS						
SECTIONS 78 AND 322 AND						

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990,
SCHEDULE 6
LOCAL GOVERNMENT ACT 1972, SECTION 250(5)
APPEAL BY MR B CARRELL

1. At the hearing into the above mentioned appeal held on 28 November 1995 an application for costs was made on behalf of Mr B Carrell.
2. I enclose my decision on this application.

Yours faithfully

Geoffrey Hill

GEOFFREY HILL BSc DipTP MRTPI
Inspector

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DACORUM BOROUGH COUNCIL
11 JAN 1996

AW AND STEN...



back about 0.5m from the present gates, flanked by brick walls about 2.25m high, rising to 2.6m at the gate posts. The walls would extend about 12m on one side and 17m on the other, to screen the sub-station. A full-height boarded gate would allow for access to the sub-station. I consider the proposed new entrance would be in keeping with the scale and character of the property.

6. This part of the conservation area has a distinctly rural character, with very little built development in the vicinity of the entrance. However, in my view the proposed development would not be an essentially urban feature. The scheme would introduce a degree of formality to entrance, but I do not consider this would be inappropriate or ostentatious. The proposed wall and gates would be of a simple, uncomplicated design, not unusual in this rural area, particularly where associated with large houses or similar buildings. The walls would be set well back from the road, and would not therefore appear intrusive or conspicuous in the broader view along the road. I consider this side of Tower Hill would still retain its rural character. As discussed at the hearing, the specified bricks would be appropriate materials to use in this setting.

7. Although the scheme would involve the removal of about 25m or so of the existing roadside hedge, this is not specifically protected and hence its loss cannot be an overriding consideration. In any event, it is proposed to plant a new hedge in front of the wall which would, in time, blend in with the remainder of the frontage and subdue the impact of the walls. In my opinion, although a new feature, the proposed development would be in keeping with its surroundings. Furthermore, it would screen the present sub-station from view. In which case I consider the proposed development would serve to preserve and enhance the character and appearance of the Chipperfield Conservation Area.

8. The site is also within the Metropolitan Green Belt. This would be a small scale development, ancillary to the existing house, which would not have an adverse impact on the character, function or appearance of the Green Belt. This would be in accordance with Policy 3 of the Local Plan and therefore appropriate development in the Green Belt.

9. The Council put forward suggested conditions in the event of my allowing the appeal and granting planning permission. The conditions seek to ensure that the development is carried out in accordance with the submitted details and that the proposed landscaping scheme is implemented and allowed to become properly established. In view of the sensitivity of this setting I consider these conditions are necessary, adapted as appropriate to conform to the advice and guidance contained in Circular 11/95.

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 a boundary wall, entrance gates and landscaping at Chipperfield House, Tower Hill, Chipperfield in accordance with the terms of the application N^o 4/0023/95 dated 9 March 1995 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. no development shall not take place until samples of the bricks to be used have been submitted to and approved in writing by the local planning authority, and the

walls shall be constructed in the approved bricks, unless the local planning authority give written approval to any variation;

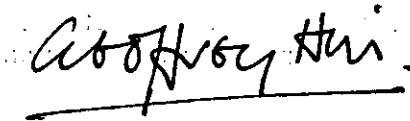
3. all new hedge planting and areas to be seeded shown on the approved plan (drawing N^o BC213A) shall be carried out in the first planting and seeding season following the completion of the development, and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season (defined as commencing on 1 October in any one year and ending on 31 March in the following year) with others of similar size and species, unless the local planning authority gives written consent to any variation.

11. 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 consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

12. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

13. Your attention is drawn to the provisions of Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Geoffrey Hill', is written over a horizontal line.

GEOFFREY HILL BSc DipTP MRTPI
Inspector

APPEARANCES

for the appellants:

Mr A E King BA(Hons) BPI MRTPI	Agent
Mr B E Carrell	Applicant
Mrs M E Carrell	

for the local planning authority:

Mrs J Custance BA(Hons) MRTPI	Planning Officer
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DOCUMENTS

Document 1	List of persons present at the hearing.
Document 2	Letter informing interested persons of the hearing, and list of those notified.
Document 3	Appendices to Mr King's statement
Document 4	Appendices to Mrs Custance's statement

PLANS

Plans A.1-A.2	Application plans
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TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/0023/95

Mr B Carrell
Chipperfield House
Tower Hill
Chipperfield
Herts

Mr A King
Folly Bridge House
Bulbourne
Tring
Herts
HP23 5QG

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

Chipperfield House, Tower Hill, Chipperfield

BOUNDARY WALL AND ENTRANCE GATES (RESUBMISSION)

Your application for *full planning permission (householder)* dated 11.01.1995 and received on 13.01.1995 has been **REFUSED**, for the reasons set out on the attached sheet.

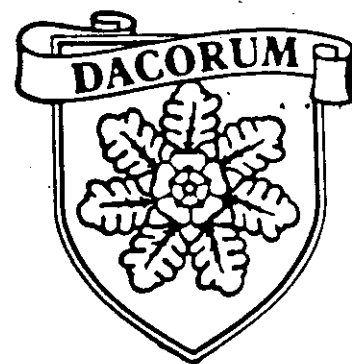
Director of Planning

Date of Decision: 09.03.1995

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/0023/95

Date of Decision: 09.03.1995



1. The proposed walls and gates would bring about a marked change to the present rural appearance of this part of Tower Hill. The substantial length and height of the proposed wall would create a major interruption in the long line of hedgerow on the south-west side of Tower Hill and add a significantly more urban feature to the surroundings. The scale and design of the proposed entrance, particularly when compared to the existing entrance, would be inappropriate as it would seriously injure the visual amenity of the area.
2. The site is situated within the Chipperfield Conservation Area. The proposed boundary walls and gates are incompatible with the property's rural setting and would have a detrimental effect on the general character and appearance of the designated Conservation Area, contrary to the aims of Policy 109 of the Dacorum Borough Local Plan.