



The Planning Inspectorate

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

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0272-218927
Switchboard 0272-218811
Fax No 0272-218769
GTN 1374

Chapman Warren
Town Planning and Development
Consultants
Fairwater House
1 High Street
Wroughton
Swindon, Wilts
SN4 9JX

Your Ref:
AD/ORB/C.2065
Our Ref:
T/APP/A1910/A/93/226850/P7

Date:
18 JAN 1994

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY CROSS OAK (BERKHAMSTED) DEVELOPMENTS LTD
APPLICATION NO: 4/0108/93

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Dacorum Borough Council to refuse planning permission in respect of an application to erect a new 5 bedroom detached house with integral double garage, on land adjoining No 31 Oakwood, Berkhamsted. I held a local inquiry into the appeal on 15 November 1993. At the inquiry, an application was made by Cross Oak (Berkhamsted) Developments Ltd for an award of costs against Dacorum Borough Council. This is the subject of a separate letter.

2. The appeal site forms part of the garden area of No 31 Oakwood and is situated at the entrance to an attractive estate of 39 large detached houses. Trees form an important feature of the area and those in the vicinity are subject to Tree Preservation Order 1985.

3. From the evidence at the inquiry, my inspection of the site and surroundings, and the written representations received, I consider the main issues in this case to be the effect of the development on (1) the character and appearance of the area and (2) on the trees covered by a Tree Preservation Order.

4. The Council referred in its statement to Policies 8 and 100 of the adopted Local Plan which require development to be compatible with the established character and appearance of the area.

5. The application site originally formed part of a wooded area on the west side of the entrance to the estate. I found from my visit, however, that a number of trees had been lost, apparently due to the severe storms which occurred some years



ago. There is a specimen Wellingtonia tree in the garden of No 31. A pleasant hedge along part of the Oakwood Way frontage, and a fence with intensive planting behind it, screen the appeal site from the road.

6. The Council considers that the development would be cramped in that the useable amenity area for the new dwelling would be restricted by the close proximity of trees. The Council also maintains that the private useable rear garden to No 31 would be drastically reduced. I found from my visit that, although the appeal site may have been well wooded in the past, it is now mainly laid out as a pleasant urban garden, with the remaining mature trees located around the edge. These trees have been supplemented by new planting. In my view, on this plot of some quarter of an acre, there would be more than adequate open useable amenity area for the occupiers of the new house. Although the garden area to No 31 would be significantly reduced, the plot remaining would be large. The house would have a smaller rear garden but there is a substantial garden area to the side, which could readily be used as an additional private amenity area. These areas, together with the large front garden would, in my opinion, retain an attractive setting for No 31.

7. The Council believes that the new dwelling would have an unacceptable visual impact at the entrance to this estate, out of character with the area. In my view, the new dwelling would be well screened from Shooters Way by the important trees along the northern boundary and others which turn the corner into Oakwood. There would merely be glimpses of the house through the trees and I consider it would be far less prominent at the entrance to this estate than No 4 opposite. As the existing character of the area consists of large detached dwellings in a landscaped setting, I do not believe this new 5 bedroom detached house, set amongst the trees, would be out of keeping in this location. In my opinion, in design and scale the house would reflect those in Oakwood, and respect the overall appearance of the area.

8. Local residents and the Council expressed concern about the loss of amenities to neighbouring occupiers because of the siting of the new dwelling and close proximity of the new dwelling to No 31. In my view, the new house has been sited to avoid undue overlooking of No 31, which has no important upper floor windows at the eastern end of the house. I consider that the distance from other houses precludes any material loss of privacy. This is helped by the mature trees at the bottom of the garden of the new dwelling. Although the effect on daylighting and sunlighting was discussed I do not consider there would be any infringement of standards having regard to Site Layout - Planning for Daylight & Sunlight 1991.

9. I do share the concern of residents and the Council about the loss of part of the hedge and fence, to provide a new vehicular access. However, having regard to the overall character of this estate where open frontages predominate, I

do not consider the loss of a limited section of planting to provide access would change the character or be out of keeping with the appearance of Oakwood. Even with a gap in the hedge, the new house and No 31 would far be less prominent than other houses on the estate. I believe that the sight splay requirements suggested by the Council are excessive and would involve the removal of too much planting. I consider with the limited pedestrian movement along the footway that the sight splays and access width should be reduced to the minimum compatible with highway safety.

10. Turning to the second issue, I was concerned to note that the plans submitted with the application were inaccurate in respect of the location of the specimen Wellingtonia. From my site visit I found that the tree would be some 13.7m from No 31 and some 10.3m from the nearest point of the new house. The Council and residents were concerned about this close relationship, particularly the effect on the tree from the new garden wall and the position of the turning area. I share this concern. I consider there would be likely to be an unacceptable effect from the garden wall foundations on the root growth of the Wellingtonia, particularly if that tree suffers from uneven root growth. It is a hardy tree but I believe the turning area should be moved away to avoid any damage to shallow roots. I note your clients would be willing to accept a condition regarding the replacement of the wall with a fence or planting and the repositioning of the turning area.

11. From my visit I do not consider that any of the existing trees on the site, including the Ash, and the Wellingtonia in the garden of No 31, would be affected by the siting of the new house itself. I share the view of the Council that the tree screen along the northern boundary is an important feature and should be retained. I do not, however, consider that these established trees, nor the newly planted trees supplementing them, would be affected by the new development subject to appropriate safeguards during construction.

12. Local residents were very worried about a precedent being created if this appeal were to be allowed. I was referred to appeal decisions and sites which had been under threat from development in the vicinity and in other parts of Berkhamsted. I visited these sites. Although I share the concern of the residents and the Council about previous and possible future proposals to fragment the rear gardens of houses, I do not consider the present scheme to be similar to those developments. In my view, the appeal site is a large plot with its own particular characteristics and relationship to Oakwood, not repeated elsewhere in the vicinity. I believe this proposal can, therefore, be dealt with on its own merits, without the fear of creating a precedent in the area.

13. The Council raised the issue of land availability but although a material consideration I do not believe that this appeal for one dwelling should turn on whether there is an

adequate supply of land. It was not a matter which I perceive was raised by Council officers at any stage in the negotiations and such calculations can rarely be exact, bearing in mind other restraints on land which preclude it from coming forward when expected.

14. I have taken into account all other matters raised, but these do not outweigh the factors which have led me to my conclusions that the proposed development would not cause demonstrable harm to the character and appearance of the area or to established trees in and outside the site.

15. The Council has suggested conditions it would wish to see imposed. Although having regard to national advice I would not normally take away permitted development rights I believe that in this case, because of the importance of the trees on the site, the Council should have an opportunity of assessing the effect on them of any new building works in the garden. I have imposed a condition accordingly. For the reasons given above I also consider the turning area should be repositioned and the wall replaced with another form of screen or planting. I do not consider a condition requiring details of materials to be necessary as such information is contained on the application form.

16. For the above reasons and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission to erect a 5 bedroom detached dwelling, with integral garage, on land adjoining No. 31 Oakwood, Berkamsted, in accordance with the terms of the application (4/0108/93) dated 25 January 1993, 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. that details of (a) the 2m screen on the boundary between the new house and No 31, and (b) the repositioned turning area, shall be submitted to and approved by the local planning authority prior to the commencement of the development;

3. that notwithstanding the provisions of the Town and Country Planning General Development Order 1988, as amended, planning permission shall be required for development falling within Classes A, E & F of part 1, and Class A of part 2 of Schedule 2 to the Order;

4. the new access into the site shall not exceed 4.5m in width. Sight splays 2.4m x 2.4m shall be provided in accordance with details to be submitted to and approved by the local planning authority and such splays shall be kept free of all obstructions between 600mm and 2m above carriageway level;

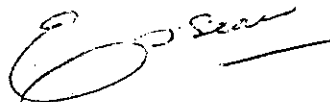
5. existing trees on the site shall be protected during building operations in accordance with a scheme to be submitted to and approved by the local planning authority prior to the commencement of the development;

6. no development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, and all planting, seeding or turfing shall be carried out in the first planting season after the occupation of the building or the completion of the development, whichever is the sooner; and any trees or 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 with others of similar size and species, unless the local planning authority gives written consent to any variation.

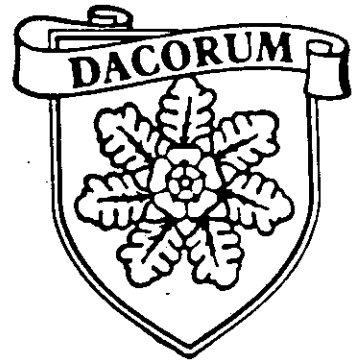
17. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

18. 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.

Yours faithfully



ERIC T SEARLE DipTP FRTPI FBEng MIMgt
Inspector



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/0108/93

Cross Oak (Berkhamsted) Dev
18 Cardiff Road
Luton
Beds
LU1 1PP

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

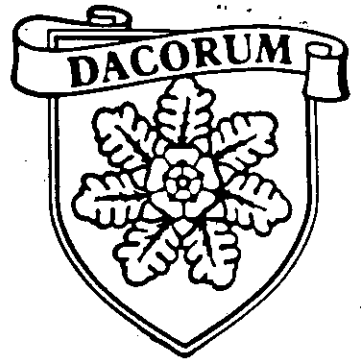
adj 31 Oakwood, Berkhamsted, Herts
DETACHED DWELLING

Your application for *full planning permission* dated 25.01.1993 and received on 27.01.1993 has been **REFUSED**, for the reasons set out on the attached sheet(s).

Director of Planning

Date of Decision: 24.06.1993

(ENC Reasons and Notes)



REASONS FOR REFUSAL
OF APPLICATION: 4/0108/93

Date of Decision: 24.06.1993

1. The proposed dwellinghouse represents a cramped form of development detrimental to the amenities of the area and the adjacent properties and to the general appearance and character of the area.
2. The proposed development would be likely to prejudice the trees on the site which are covered by a Tree Preservation Order.
3. The works necessary to construct the driveway and the access to the site would spoil the appearance of this part of the Oakwood Estate and would present a threat to the trees which are covered by a Tree Preservation Order.