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Mr B J Pattle
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PLANNING DEPARTMENT						GTN
DACORUM BOROUGH COUNCIL						1374
File	Ack			Your Reference		
DD	DC	TC	Admin	File		
Received 13 FEB 1990						Date
Comments						12 FEB 90

Your Reference

Our Reference

T/APP/A1910/A/89/132112/P2

Date

12 FEB 90

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/0242/89

I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Dacorum Borough Council to refuse planning permission for a two storey side extension at Tudor Lodge, Shootersway Lane, Berkhamsted. I have considered the written representations made by you and by the Council. I have also considered the representations made directly to the Council which have been forwarded to me. I inspected the site on 29th January 1990.

2. Your house stands in a predominantly residential area where the numerous trees and bushes make for an attractive wooded setting. Many of the trees are covered by tree preservation orders and, in particular, an order made in 1983 protects several trees within your garden. Local policies reflect national guidelines in seeking to preserve and protect trees which make an important contribution to the landscape.

3. From my inspection of the site and its surroundings and from the written representations made I consider that there is one main issue in determining this appeal. That is whether the proposal would unacceptably harm the appearance of the surrounding area through the loss of a mature oak tree which is the subject of a tree preservation order.

4. The proposal is for a two-storey extension at the corner of your house. The Council have raised no objection to its appearance but the side wall would be less than 1 metre from a mature oak tree. At such a distance, even if all practicable precautions were taken, I have no doubt that the proposal would involve substantial damage to the roots of the tree. Moreover, the proposed extension would have a kitchen window directly opposite the tree and, at first floor level, bedroom windows close to it. Even if the root damage did not fatally weaken the tree, the regrowth of the root system could seriously affect foundations and I consider it likely that there would, eventually, be a request for its removal or drastic pruning. In view of the circumstances I consider that the Council would have difficulty in finding convincing reasons to resist such a request. I am satisfied, therefore, that if the proposal were carried out this tree would, in the long term, stand little chance of survival.



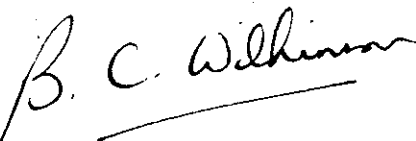
5. It stands almost in line with 5 other trees and I recognise that this is an area where there are many trees and bushes. This oak is, however, one of the largest trees in the vicinity and, standing in a particularly prominent position close to the road, it is an important feature of the street scene. Whilst its shape is not particularly distinguished it appears to be in good condition with a long life expectancy, and I see no reason to doubt the Council's view that it is a healthy specimen. I note your willingness to replace it, if necessary, by a semi-mature oak but it would be very many years before the replacement would contribute to the appearance of the area as much as the existing tree.

6. Whilst the proposals would provide additional space for your family I am aware of no special or compelling need to provide such accommodation. Consequently, to accept the proposal, and the likely loss of the tree, without very special reasons to do so could weaken the case for resisting the removal of others whose loss, in accumulation, would further damage the appearance of the area. Whilst this, alone, would not justify the dismissal of this appeal it does add support to the case against the proposal. I conclude that the proposal would be likely to result in the loss of the oak tree, and that this would be unacceptably damaging to the appearance of the area. It is my intention to dismiss this appeal.

7. I have taken into account all of the other matters raised but they do not outweigh the considerations that led to my decision.

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

I am Sir
Your Obedient Servant



B C WILKINSON B Eng(Hons) DipTP MRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Mr. B. Pattle
'Tudor Lodge'
Shootersway Lane
Berkhamsted
Herts.

Mr. B. Johnson
13 Deans Furlong
Tring
Herts.

..... Two storey side extension

.....

at 'Tudor Lodge', Shootersway Lane, 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 2. February 1989 and received with sufficient particulars on 6. February 1989 and shown on the plan(s) accompanying such application..

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

The extension abuts an oak tree which is subject to Dacorum District Council Tree Preservation Order 1983 (land adjacent to 'Pinehurst', Shootersway Lane, Berkhamsted) and the proposed development is unacceptable for the following reasons:-

- (a) The construction of the extension so close to the oak tree would be likely to seriously prejudice its future health due to damage and disturbance to its root system.
- (b) The close proximity of the extension to the oak tree would be likely to lead to applications for pruning and/or felling of the tree, the loss of which would be to the detriment of the visual amenity of the locality.

Dated 26th day of April 19 89

Signed..... *Wm Barnard*

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.