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Our Ref: T/APP/A1910/A/97/288092/P4

- 8 APR 1998

C: RC - for info

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 outline planning permission in respect of an application for the erection of a detached house and garage on land at Castle Hill Close, Berkhamsted. I have considered the written representations made by you and by the Council and also those made by interested persons. I inspected the site on 26th January 1998.

2. The appeal relates to a rectangular site of some 0.15 ha which has a frontage onto the south-east corner of Castle Hill Close, a cul-de-sac of eight detached houses running south off Bridgewater Road. The site is bounded to the north by the house and garden of 5 Castle Hill Close and to the west by 7 Castle Hill Close. To the south is the car park of Berkhamsted railway station. The appeal site is at the western end of a long embankment running east to west, which was apparently formed about 120 years ago when the adjoining railway line was laid out. Many of the trees on the top of this embankment are the subject of a Tree Preservation Order. The appeal site contains seven trees which are included in the Order. Five of these are Horse Chestnuts and the other two are an Ash (T1) and a Cedar (T5). A further 26 trees outside the site but on the same embankment are the subject of the same Order. Your client proposes to erect a single dwelling with a detached garage on the site, with access from Castle Hill Close. Although the application is for outline permission, an illustrative plan was submitted with the application.

3. Since the application that is the subject of the present appeal was determined, you have submitted a further application to the Council for the use of the site as a car park, with vehicular access off the existing railway car park. Two reasons were given for the refusal of that application on 12th February 1998, ie. the effect of the scheme on trees on the site and the impact on the amenity of occupiers of neighbouring dwellings.



4. Section 54A of the 1990 Act requires that planning applications and appeals are determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. In the present case the development plan comprises the Hertfordshire County Structure Plan Review, Incorporating Approved Alterations 1991 and the Dacorum Borough Local Plan.

5. The Council has drawn my attention to a number of policies of the Structure Plan. Policies 47 and 48 seek to protect and enhance existing settlements and conserve and enhance the quality and viability of the urban environment. Policy 49 indicates the towns in which development will generally be concentrated. Policy 57 indicates that the maximum contribution to the housing programme will be from existing towns provided that such development accords with policies 71 and 72, which require development to relate well to the special character of particular neighbourhoods and to be compatible with a high standard of design.

6. Similarly, the Council has referred to several policies of the Local Plan. Policy 1 identifies Berkhamsted as a town to where development is generally directed. Policy 7 deals with land use divisions within settlements. Policies 8 and 9 deal with the qualitative aspects of development proposals. Policy 10 states that planning conditions will be used where appropriate to control and meet the adverse effects of development proposals. Policy 60 encourages improvements to public transport services and facilities and identifies specific sites for continued public transport use. The appeal site forms part of such a site. Policy 94 gives high priority to the retention of existing trees and woodlands and to their protection during development. Policy 101 refers to the density of developments in residential areas. Proposals will not be permitted if they have a dwelling density that would adversely affect the amenity and existing character of the surrounding area.

7. From my consideration of the written representations and my visit to the site, it is my opinion that the principal issues in this case are:

(a) whether the proposal would lead to an unacceptable loss of a potential public transport facility.

(b) whether the proposal would lead to an unacceptable loss of preserved trees.

8. With regard to the first issue, the Council emphasises that although the site is within Berkhamsted, where development will normally be encouraged, it forms part of a site identified for public transport use in the Local Plan. The Council suggests that no evidence has been submitted which demonstrates conclusively that it is no longer needed for station purposes.

9. In response you note that the land was sold to the appellants by British Rail and that Railtrack regards the site as surplus to its requirements. Moreover, in refusing the most recent application on the site, the Council did not refer to its potential use for public transport.

10. In my opinion, the evidence clearly suggests that policy 60 of the Local Plan is no longer relevant to the proposal, in view of the position taken by the relevant public transport authority. Although the Council has not withdrawn this reason for refusal, the failure to give

a similar reason for the refusal of the car park application suggests that this must be the case. Accordingly, I consider that this is not a significant objection to the proposal.

11. Turning to the second issue, the appeal scheme would require the removal of two of the trees in the Tree Preservation Order (T2 and T3). The Council is concerned at the loss of these trees and suggests that damage to two further trees (T1 and T4) is likely to occur during construction of the proposed dwelling. Although the remaining three trees in the Order would not be directly affected, the Council considers that these are unsuitable for retention within a residential garden because of the potential nuisance from such matters as obstruction to light. This could lead to future requests for severe pruning or even felling. The Council also expresses concern about the impact of the scheme on non-preserved trees on the site.

12. In response you argue that the site is within the urban envelope and that its use for development is appropriate to ensure an adequate supply of housing land. In your view the whole row of trees is now at an advanced age and a number of them (including T4) should be removed and replaced. You consider that the trees on the appeal site are not so important as to merit its sterilisation. You believe that the landscape proposals within the scheme would replace trees which should be removed in any event or are of low and deteriorating value with new planting which would otherwise not be provided. Accordingly, you consider that the proposal would be of long-term benefit to the treescape of the area.

13. In my view the preserved trees on the appeal site provide an important visual amenity for residents in Castle Hill Close and Bridgewater Road and for those persons using Berkhamsted station. I share the Council's opinion that the works which would be involved in constructing the proposed dwelling are likely to affect the health of T1 and T4, and that accordingly at least four of the seven preserved trees are likely to require eventual removal. While I accept that these trees are at the end of a row, I consider that their loss would be significant, particularly for residents in Castle Hill Close.

14. I also share the Council's concern about the desirability of siting the proposed dwelling in relatively close proximity to the remaining trees, although I have noted your view that such relationships between trees and houses are often found. However, even if the future of T5-T7 could be assured, in my opinion the loss of T1-T4 that would clearly result from the scheme would conflict with the objectives of policies 8, 94 and 101 of the Local Plan.

15. I have noted your views about the age of the trees and the need for some remedial works to them. However, the evidence put forward by the Council on this point suggests that the health of the trees is not as serious as you suggest, and that they could continue to provide an amenity to the area for a number of years. In the absence of clear evidence to the contrary, I consider that the retention of the trees is in the public interest.

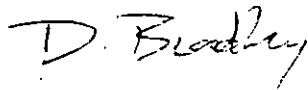
16. Therefore, to summarise, while the public transport issue appears to be no longer relevant to the proposal, I consider that the removal of preserved trees would significantly affect the amenity of the area. Accordingly, I have concluded that the appeal should not be allowed.

17. I have taken into account all the other matters raised in the representations, including the contribution the site would make to the supply of housing land. However, in my view

this must be balanced against the harm that would result from the loss of the preserved trees. There are no other matters which outweigh the considerations that have led to my decision.

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

Yours faithfully

A handwritten signature in dark ink, appearing to read 'D. Bradley', written in a cursive style.

DENNIS BRADLEY BSc (Econ) DipTP MRTPI
Inspector



PLANNING

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Applicant:
W E BLACK LTD
C/O SAVAGE AND PARTNERS

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION : 4/00449/97/OUT
PROPOSED DETACHED HOUSE AND GARAGE
ADJ 5, CASTLE HILL CLOSE, BERKHAMSTED, HERTS, HP4 1HR

Your application for outline planning permission dated 14 March 1997 and received on 17 March 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning
Dacorum Borough Council
Civic Centre
Marlowes
Hemel Hempstead
Herts
HP1 1HH

Date of Decision: 28 May 1997

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00449/97/OUT

Date of Decision: 28 May 1997

1. The proposed development would have a seriously detrimental effect on the trees on the site, many of which will have to be removed for the construction of the house, garage and driveway. Furthermore, the health of several trees will be undermined because of the difference in levels on the site, and the proximity of the trees to the proposed development.

2. The site is identified as being safeguarded for Berkhamsted Railway Station Interchange (Site T24 in the Dacorum Borough Local Plan) and in the absence of evidence that the site is no longer required for station purposes the proposal is therefore contrary to Policy 60 of the Dacorum Borough Local Plan.