



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/0475/96

Title of TPO. Land at The Coppice, Off Highfield Rd, Wigginton

TPO File No. 266

Mrs L Usher
Chiltern House
1 The Coppice
Highfield Rd
Wigginton
Nr Tring
HP23 6QJ

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

Chiltern House, 1 The Coppice, Highfield Road, Wigginton

REMOVAL OF OAK AND ASH TREES AND WORKS TO EXISTING OAK TREE

Your application for *works to a tree protected by a TPO* dated 03.04.1996 and received on 10.04.1996 has been **REFUSED**, for the reasons set out on the attached sheet.

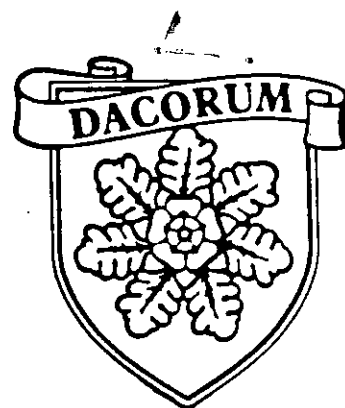
Director of Planning

Date of Decision: 13.06.1996

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/0475/96

Date of Decision: 13.06.1996



The Oak and Ash trees are mature specimens with no apparent significant defects. Furthermore, there is no case for the felling of these trees on the grounds of safety. Detailed plans for this development were approved in August 1994 and the extent of necessary tree removal was agreed at that time. There is insufficient justification now to depart from the basis on which planning permission was originally granted.



GOVERNMENT OFFICE
FOR EASTERN REGION

PLANNING DEPARTMENT
DACORUM BOROUGH COUNCIL

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Mr R J Usher
Chiltern House
1 The Coppice
Wigginton
TRING
Herts
HP23 6QJ

	D.P.	D.C.	B.C.	Admin.	Fee
Received					
31 JUL 1997					
Comments					

30 JUL 1997

Our ref: E1/A1910/5/4/06

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL LAND AT THE COPPICE, OFF HIGHFIELD ROAD, WIGGINTON TREE PRESERVATION ORDER, 1996 - THIRD SCHEDULE APPEAL AGAINST REFUSAL OF CONSENT TO FELL ONE OAK TREE AND ONE ASH TREE ON LAND AT CHILTERN HOUSE THE COPPICE WIGGINTON HERTS

1. I am directed by the Secretary of State for the Environment to refer to your appeal, made under the Third Schedule of the above-mentioned Order, against the decision of Dacorum Borough Council to refuse consent for the felling of one oak tree and one ash tree, situated on land at Chiltern House, 1 The Coppice, Wigginton, Tring, Hertfordshire. The trees are included within Area A1 of the Order.
2. The Secretary of State has carefully considered your representations, together with those of the Council and a local Councillor. An Inspecting Officer visited the site on 20 June 1997. A copy of his report is appended to this letter.
3. In your grounds of appeal you explained that the trees had not been initially identified for retention when your house was being built. At the time of your application, the Council's Woodlands Officer had described the trees as being of poor quality, of low vigour and not worthy of retention or protection individually under an Order. The trees could be removed without any detrimental effect to the overall landscape. You were concerned about the trees' proximity to your house. The plans for your garden included the planting of many new indigenous species and you had aimed to create a natural woodland environment. The replacement of the appeal trees could be adopted in your own garden design.
4. In their statement, the Council argued that, although not outstanding specimens or worthy of protection under an Order as individual trees, the appeal trees contributed to the semi-rural character of the area. The development, of which your house was a part, had enabled as many trees as possible to be retained. It had been planned round a woodland concept and all the trees, despite being at different stages of development, contributed to the appearance of the whole site. The Order had been made as it was considered the trees were under threat. The appeal trees were

very visible from the Ridgeway National Trail. There was no suggestion that the appeal trees were dangerous or interfered unreasonably with your enjoyment of your garden or house. They posed a minimal threat to the structure of the house. Your garden design was of a suburban nature and the proposed tree planting was out of character with its woodland setting. Of the trees so far planted, only the silver birches were indigenous. The removal of two semi-mature trees could not be supported; there was insufficient justification to depart from the basis on which planning permission for the development had originally been granted.

5. The Secretary of State has given careful consideration to all the arguments for and against the appeal proposal and to the Inspecting Officer's appraisal and conclusions. The Inspecting Officer found that the upper branches of the ash tree were visible from the adjacent sections of the Ridgeway Path but that the oak tree was visible to a far lesser extent. He also found that the trees provided the only mature cover in the southern part of your rear garden. The Secretary of State accepts that the trees, and in particular the ash tree, possess some amenity value. However, the Inspecting Officer found that the oak tree had a number of significant defects and that, compared with the ash, it made a negligible contribution to the treescape. The Secretary of State accepts these findings and is satisfied that the oak tree is not suitable for retention.

6. The Secretary of State has considered whether there is a case for the removal of the ash tree, in addition to the oak tree. The Inspecting Officer concluded, for the reasons given in paragraph 13 of his report, that the ash tree did not present any particular risk to your property. The Secretary of State sees no reason to disagree with that conclusion. He is of the opinion that the maintenance of the mature and semi-mature tree cover at The Coppice is important and should be given some weight in the determination of your appeal. Although the ash tree makes only a minor contribution to the local treescape, he agrees that it is desirable that it should be retained, at least until such time as other trees have developed to maintain the local tree cover. The Secretary of State has therefore decided that the ash tree should not be felled at this stage. You may wish to note the Inspecting Officer's comments on the desirability of removing the large subsidiary basal stem on the southern side of the tree. Any application for the removal of this stem would be for the Council to consider in the first instance. The Secretary of State has drawn no conclusions on the desirability or otherwise of that work.

7. The Inspecting Officer concluded that the oak tree should be replaced. He set out his reasons for reaching that conclusion in paragraph 12 of his report. The Secretary of State agrees that the tree should be replaced and will impose a condition to that effect, in line with the Inspecting Officer's conclusion.

8. For the reasons given above, the Secretary of State agrees with the Inspecting Officer's appraisal and conclusions, save in so far as they relate to the desirability of removing the basal stem from the ash tree. Accordingly, he hereby:

a) Dismisses your appeal, in so far as it relates to the ash tree, and

b) Allows your appeal, in so far as it relates to the oak tree and grants consent for the felling of one oak tree, included within Area A1 of the Dacorum Borough Council Land at The Coppice, off Highfield Road, Wigginton Tree Preservation Order, 1996, and situated on land at Chiltern House, 1 The Coppice, Wigginton, Tring, Hertfordshire, subject to the following conditions:

- i) the felled tree shall be replaced by one tree;
- ii) the replacement tree shall be planted in the proximity of the southern boundary of Chiltern House, well clear of the crown spread of adjacent trees. The exact location for the replacement planting shall be a matter for final agreement between the Appellant and the Local Planning Authority;
- iii) the species of the replacement tree shall be either oak or deodar cedar;
- iv) the planting of the replacement tree shall take place within the period from October to March, after the oak tree has been felled;
- v) the replacement tree shall have a minimum height of 1.5 m at the time of planting; and
- vi) the details of these tree replacement conditions shall only be modified following the prior written approval of the Local Planning Authority.

9. Your attention is drawn to the provisions of British Standard 3998:1989 (Recommendations for Tree Work) which give guidance on tree felling.

10. A separate note is enclosed setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

11. Copies of this letter have been sent to Dacorum Borough Council and to the local Councillor who supported your appeal.

Yours faithfully

Andrew N Hayes

ANDREW N HAYES
Authorised by the Secretary of State
to sign in that behalf

Department of Environment
Eland House
Bressenden Place
London SW1E 5DU

File Reference: E1/A1910/5/4/06

To The Right Honourable John Prescott MP
Secretary of State for the Environment, Transport and the Regions

Sir,

I have been asked to advise on the appeal by Mr. R.J. Usher made under the Third Schedule of The Land at the Coppice, off Highfield Road, Wigginton, Tree Preservation Order, 1996, against the refusal of Dacorum Borough Council to permit the felling of two trees on land at Chiltern House, 1 The Coppice, Wigginton, Tring, Herts., and to carry out an inspection of the site on your behalf. On 20th June 1997 I made an unaccompanied site visit.

1. This report contains a description of the appeal trees and their surroundings and my appraisal (on the basis of my observations and the written representation of the parties) of the likely impact of the proposal. It is illustrated by various photographs which are appended.

THE SITE AND SURROUNDINGS.

2. The location of the site is well described in paragraphs 1.1 to 1.5 of the local authority Submission.

3. Chiltern House is a large two storey detached property located in the south east corner of the development (photo 3). A large conservatory, which projects 3.2m, has been added to the rear of the house, with this surrounded by a raised patio area (photo 2). The rest of the rear garden has been landscaped with a broad curving peripheral flower bed and a central shrub border adjacent to the eastern corner of the house. This landscaping is generally in accordance with the planting scheme included with the Appellant's Submissions, with the shrub borders planted with a wide variety of shrubs and herbaceous perennials. The rear garden is enclosed by a 1.8m high wooden boundary fence.

4. Apart from the two appeal trees, the only tree in the rear garden which pre-dates the development is an ash tree adjacent to the eastern boundary, opposite the rear corner of the garage. This tree is in early maturity, with a height of about 10m. There is an oak tree in the front garden, closely adjacent to the northern boundary. In the adjacent garden to the north, and also in the garden of the other house fronting onto Highfield Road, are a large number of mature trees, predominantly oak and cedar (photo 3). In the garden of 2 The Coppice is an ash tree, located between the two houses. The Ridgeway footpath runs in the strip of ground adjacent to the south and east sides of the development. In the section which abuts the southern boundary of the appeal site there are an oak and two cedar trees growing between the path and boundary fence. The oak stands immediately adjacent to the south east corner and has branches extending up to 6m over the corner of the appeal site, with the ends of these branches drooping to within about 3m of the ground level. One of the cedars is located approximately centrally on to the south boundary of the appeal site, opposite the two appeal trees. The branches of this tree also overhang the garden by about 5m. The other cedar is adjacent to the south west corner of the appeal site. Most of the lower branches on this are dead or have been removed. Along the far side of the Ridgeway track is a continuous hedgerow of trees, consisting predominantly of hawthorn, with ash and oak, plus one birch, mountain ash and pine.

5. In addition to these trees which pre-date the development, some new trees have been planted on the appeal site amongst the shrubs and herbaceous planting. This includes a multi-stemmed silver birch; this has been planted beneath the branches of the cedar which overhang the central part of the southern boundary. A purple leafed plum has been planted in the south west corner; this is close to the adjacent cedar, but the dead lower branches of the cedar do not cause unacceptable shading. A young laburnum has been planted in the south east corner; this is beneath the crown spread of the adjacent oak tree. A Japanese maple and false acacia have been planted in the central flower bed. In the adjacent garden to the west there is a recently planted mountain ash and a pear tree close to the boundary with the appeal site.

THE TREES.

6. The two trees which are the subject of appeal are located in the rear garden, at the location shown on the Appellant's plan accompanying his letter of 15th March. The ash tree is 10.2m from the rear of the house and 7m from the rear of the conservatory. The oak is 9.0 and 5.8m from these structures. The two trees are 2.1m apart.

7. The ash has a height of about 11m and a trunk diameter of 24cm. There is a subsidiary stem, with a diameter of 15cm, which forks from the south side of the main trunk at 0.5m above ground level. The main trunk has a slight lean to the south east as a result of competition with the adjacent oak, and it sub-divides into three main stems between 2.3 to 3m height. These stems support a light, open branch structure, with these branches extending up to 5m on the north, south and east sides. To the west, branch development is restricted by the adjacent oak, except for the topmost branches. The tree is maintaining steady and rapid shoot extension growth and has no significant defects.

8. The oak has an overall height of 10m. The trunk sub-divides at 0.3m into two similar stems, with diameters of 18 and 16cm. The basal fork is narrow, with some included bark. The northern stem forks at 3.5m and shows a pronounced split in the base of the branch which extends to the north, and potential weakness in other forks in this stem. The main southern stem has smaller lateral branches, all with satisfactory forking angles. The whole tree has a slight lean to the west, with most of the branch development on the north, south and west sides as a result of competition with the adjacent ash. Lateral branches extend up to 3m. The tree has maintained steady shoot extension growth on the main branches, and has also developed a mass of short epicormic shoots on the two main stems above a height of 2m.

APPRAISAL.

9. The oak is a young tree which has a number of significant defects. One main branch is badly split and the main basal fork is poorly formed and will be liable to split. The tree is suppressed by the adjacent ash. The ash is growing faster, and so the extent of suppression will only increase in future. Compared with the ash, the oak makes negligible contribution to the treescape.

10. The ash is a better quality tree. Although branch development has been restricted on the west side by the adjacent oak, if the oak tree was removed it would still appear reasonably balanced and symmetrical. The large subsidiary stem on the southern side tends to detract from its appearance and is now in contact with the branches of the adjacent cedar. This subsidiary stem could be removed with benefit to the appearance of the tree.

11. The ash, and to a far lesser extent the oak, are visible from the adjacent sections of the Ridgeway footpath, although only the upper branches are seen over the high boundary fence (photos 4, 5 and 6). Apart from the branches which overhang from the trees growing along the edge of the Ridgeway path, the two appeal trees provide the only mature tree cover in the southern part of the rear garden. They provide some benefit in softening the appearance of the new development.

12. The recently planted birch and laburnum have been located beneath the overhanging branches of the cedar and oak. In these locations, neither of these trees are likely to develop satisfactorily. The Japanese maple is a small tree even at maturity, and the false acacia is described as a dwarf growing variety. Of the recent tree planting, only the purple leafed plum is therefore likely to provide any benefit, and even this is only a small tree. If the oak which is the subject of appeal is removed, it would therefore be desirable to impose a Condition requiring the planting of at least one replacement. There are no Submissions in respect of the location or species, but it would be desirable for such planting to be a species with the potential to grow to large size, and to be located at sufficient distance from other trees to allow proper future development. There is ample space along the southern boundary between the existing overhanging trees. Oak or deodar cedar would be well suited in these locations.

13. The original application expresses concern that the trees "could cause structural damage in the future". The nature of this damage is not specified. The condition and attachment of the branches of the ash is satisfactory and there is no evidence of instability of this tree. The ash therefore poses no particular risk from collapse. In some circumstances root activity from trees can cause drying and shrinkage of a clay subsoil which can result in subsidence of the foundations. The risk of such damage is dependent on the soil conditions and on foundation depth. Current guidelines, which were in existence at the time of construction of this house, should have taken account of soil conditions and ensured that the foundations

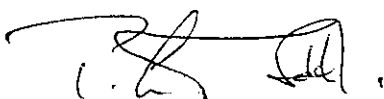
are adequate. In the absence of clear evidence to the contrary, it is therefore reasonable to conclude that there is no risk of structural damage.

CONCLUSIONS.

14. The oak tree is in poor condition and unsuitable for retention.

15. The ash tree does not present any particular risk to the adjacent building. It provides a minor contribution to the treescape of the locality, and it is desirable that it should be retained, at least until such time as other trees have developed to maintain the tree cover at the locality. The appearance of the tree would be enhanced by consent to remove the subsidiary basal stem on the south side.

16. If the oak is felled, it would be advantageous to impose a Condition requiring planting. It is suggested that such planting should either be oak or deodar cedar, (or other species by agreement between the Appellant and local authority). It should have a minimum height of 1.5m and should be planted in proximity to the southern boundary, but well clear of the crown spread of adjacent trees. The exact location is a matter for agreement between the Appellant and local authority.



Dr. P.G. Biddle, M.A., D.Phil., F.Arbor.A
2nd July 1997

DEPARTMENT OF THE ENVIRONMENT

RIGHT TO CHALLENGE THE DECISION

Under the provisions of Section 288 of the Town and Country Planning Act 1990, a person who is aggrieved by the decision given in the accompanying letter may seek to have it quashed by an application made to the High Court.

The grounds upon which such an application may be made to the Court are:-

i. that the decision is not within the powers of the Act (that is, the Secretary of State has exceeded his powers);
or

ii. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 288 of the Act; they are the requirements of that Act and the Tribunals and Inquiries Act 1992, or any enactment replaced thereby, and the requirements of any orders, regulations or rules made under those Acts or under any of the Acts replaced by those Acts. These include, for referred applications decided following a local inquiry, the Town and Country Planning (Inquiries Procedure) Rules 1992 (SI 1992 No 2038).

Any person who thinks there may be legal grounds for challenging the decision, is advised to seek legal advice before taking any action. It is important to note, however, that any application to quash an appeal decision must be made to the High Court within 6 weeks of the date of the decision letter.