



# The Planning Inspectorate

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D E S Dunlop, Associate Director  
Colin Buchanan and Partners  
59 Queens Gardens  
LONDON W2 3AF

Your Ref:

Our Ref:

T/APP/A1910/A/98/296765/P4

Date: 21 SEP 1998

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 & SCHEDULE 6  
APPEAL BY CREST HOMES (EASTERN) LTD  
APPLICATION NO: 4/00621/98/Ful**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the failure of the Dacorum Borough Council to determine within the required period an application for the demolition of two existing dwellings and the erection of 7 detached dwellings with associated private driveway and car parking at 59-61 Covert Road, Northchurch. I have considered all the written representations together with all other material submitted to me. I inspected the site on 7 September 1998.
2. The development plan consists of the Hertfordshire County Structure Plan Review 1991 incorporating approved alterations and the Dacorum Borough Local Plan which was adopted in April 1995. There is also a Dacorum Borough Local Plan First Review (to 2011) the deposit draft of which is expected to be published in October 1998. However, both you and the Council have relied upon the adopted local plan in your submissions and this I consider is appropriate bearing in mind the guidance on the weight to be attached to adopted and non-adopted development plans in PPG1, paragraph 48.
3. The appeal site is located within the urban area of Berkhamsted and there is, therefore, no objection in principle, to residential redevelopment there which would also be in accordance with the aim of national guidance for the recycling of urban land. The rear boundary of the site abuts metropolitan green belt land and the Chilterns Area of Outstanding Natural Beauty and the appearance of the appeal land is semi-rural in character due to the large size of the two gardens, the steeply sloping ground and the large number and variety of trees and shrubs planted there.
4. Both the structure and local plan contain policies which seek to protect the character of existing settlements and the amenities of the area. Local plan Policy 8 lists the criteria necessary to produce a high standard of development. There is a copper beech tree at the front of the site and a group of trees along the rear boundary, both of which are protected by tree preservation orders and Policy 94 of the local plan seeks the protection of trees and woodland.

5. Supplementary planning guidance in the form of a *Residential Areas Character Study* was adopted after consultation in February 1998. In the Northchurch area this guidance accepts that some areas may be appropriate for residential redevelopment but suggests that this should be subject to an upper limit of 15 dwellings per hectare. Policy 101 of the local plan sets out the criteria for considering whether the density of housing development is appropriate with particular regard to its effect on the amenity and character of the surrounding residential area.

6. For the Council it was submitted that, had the appeal application been determined, it would have been refused because the development would have been seriously injurious to the general character and amenity of the area and because trees on the rear boundary of the site would have been put at risk.

7. From the evidence before me therefore and from what I saw on my site inspection I consider that the main issue in this case is whether the development would be significantly harmful to the appearance, character and amenity of the area and thereby be contrary to development plan policies.

8. In an appeal earlier this year a proposal to build 10 houses on this site was dismissed, the inspector citing the density of the development proposed, the proximity of development to trees and the juxtaposition of houses in the middle of the site [REF.T/APP/A1910/A/97/287507]. Another proposal by your client to build 7 dwellings on this site, submitted at the same time as the current appeal proposal, was permitted by the Council. This, in the view of the Council, overcame most, if not all, of the disadvantages of the 10 dwelling scheme.

9. I consider that it has met all of the criticisms put forward by the inspector. The access drive and the frontage houses are situated sufficiently distant from the copper beech tree at the front of the site to ensure, as far as it is possible to do, that it will not be harmed by the new development. The development in the centre of the site is no longer so dominant and the houses at the rear are shown sited sufficiently distant from the rear boundary to ensure that the trees there do not unduly overshadow them.

10. In coming to a conclusion on the main issue therefore and assessing the degree of harm likely to be caused by the appeal proposal it is necessary for me to compare the layout of the latter with that of the scheme already permitted and to see whether a significant difference between the two exists.

11. The two schemes are similar, if not identical, with regard to the two dwellings at the front of the site and the access road. In the centre of the site a slightly larger dwelling [the *Derwent Special*] is substituted in the appeal proposal for a smaller one in the permitted scheme but both dwellings would occupy approximately the same position on the site and I have not concluded that the larger dwelling would be markedly more intrusive or impinge unduly on either the house on plot 2 or the existing house on an adjoining site at no 57 Covert Road.

12. The main, if not the only difference, exists at the rear of the site in relation to the western boundary of the appeal site. Here the rear of the dwellings on plots 5, 6 and 7 would be positioned between 19.55 and 21.253 m from the rear boundary while in the

permitted scheme they would be between about 21 and 21.64 m away. In the appeal scheme the house on plot 5 would be 1m closer and that on plot 6 1.5m closer.

13. I accept that it is important to retain the trees along the rear boundary of the appeal site in order that a soft planted edge remains between the developed area and that of the green belt and the AONB. I recognise also that having houses too close would endanger this boundary in that any overshadowing by the trees could lead to attempts in the future by residents to have them removed. However, having had regard to the evidence I am less than convinced that a reduction in this distance in the case of two of the houses of between 1 and 1.5 m would increase overshadowing to any significant extent. It seems to me that the lengths of the rear gardens of plots 5,6 and 7 in the appeal scheme would be sufficient to provide a reasonable degree of sunlight and daylight in the gardens and on the rear faces of the dwellings.

14. For all these reasons I have concluded that the differences between these two schemes are minor and that, as a consequence, because the appeal proposal would not differ markedly from the permitted scheme which I regard as acceptable, it would not be significantly harmful to the appearance, character and amenity of the area or be contrary to development plan policies.

15. I have taken account of all the other matters raised but none of these have been of sufficient weight to alter my conclusions on the main issues. I have concluded that the appeal proposal should be allowed and permission granted subject to conditions to which I now turn.

16. The Council proposed a number of conditions which it considered should be attached to any planning permission and you have not raised objection to any of these. Apart from the usual time limit conditions these included details of the construction of the access road and car parking areas, details of hard and soft landscaping and the implementation of these; details of trees to be retained and those planted; details of boundary treatment and levels of ground floor slabs and external materials; finally restriction on permitted development rights with regard to the formation of windows and other openings on the north-east wall of the house on plot 3, the erection of gates, fences and walls and the extension or enlargement of dwellings, were all sought.

17. With regard to the details of landscaping, tree retention and planting and boundary treatment around the site, most of this information seems to be supplied already on Drawing Nos CR 13774 03C and CH 293/(2) 01C. Further details of construction of the access drive and parking areas together with details of the boundary treatment between the plots may be necessary. Apart from these qualifications and the need to present the wording of the conditions in a way which conforms as closely as possible with the approach used in Circular 11/85, I see nothing to object to in principle and shall include them.

18. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the demolition of two existing dwellings and the erection of 7 detached dwellings with associated private driveway and car parking at 59-61 Covert Road, Northchurch in accordance with the terms of the application (No 4/00621/98/Ful) dated 31 March 1998 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of five years from the date of this permission;
2. no development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;
3. no development shall take place until details of the construction of the access driveway, car parking areas, the ground floor slab levels of the dwellings and the boundary treatment between plots have been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the dwellings are first occupied;
4. all hard and soft landscaping, retention of existing trees and planting of new trees and shrubs, together with boundary treatment shall be carried out in accordance with the details shown on Drawing Nos CR 13774 03C and CH 293/(2) 01C and in accordance with a programme agreed with the local planning authority;
5. in this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the first occupation of the dwellings;
  - (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - (b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - (c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority;
6. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilages of any of the dwellings without the prior written approval of the local planning authority;

7. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings shall be formed in the north-east wall of the dwelling on plot 3 without the prior written consent of the local planning authority;

8. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or enlargement of the dwelling houses normally permitted by Schedule 2, Part 1, Classes A, B, C or E of the Order, shall be take place without the prior written consent of the local planning authority.

19. This letter only grants planning permission under Section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent that may be required.

Yours faithfully

E.B Williams

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