

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Mr.G.Watson,
'Wyndcliffe'
Shootersway Lane,
Berkhamsted

Mr.D.Clarke,
47 Gravel Lane,
Hemel Hempstead

..... One dwelling

at Land adjacent to Wyndcliffe, Shootersway Lane,
Berkhamsted

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 20.5.85 and received with sufficient particulars on 24.5.85 and shown on the plan(s) accompanying such application..

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

- (1) The house is sited unduly close to the rear boundary of the application site thereby interfering with the open aspect to the rear of existing properties.
- (2) The situation of the house as proposed is detrimental to the amenity and privacy of adjoining property and to the environment and general character of the area.
- (3) The proposed location of the house is substantially and materially different from that previously permitted and the consequences of the relocation are considered to be unacceptable.

Dated 18th day of July 19 85

Signed.....

W. B. Marshall

SEE NOTES OVERLEAF

P/D.15

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.

**Department of the Environment and
Department of Transport**

Common Services

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GTN 2074



**CHIEF EXECUTIVE
OFFICER**

6 FEB 1986

File Ref.

Refer to ...

Cleared

Mr D Clarke
Drawing Services
47 Gravel Lane
HEMEL HEMPSTEAD
Herts
HP1 1SA

Your reference

Our reference

T/APP/A1910/R/85/1036622/R3
Date DACORUM DISTRICT COUNCIL

Ref.

C.P.O.

D.P.

D.C.

B.C.

Ack.

Admin.

File

Received

-6 FEB 86

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY G WATSON ESQ
APPLICATION NO: 4/0633/85

1. As you know, I have been appointed by the Secretary of State for the Environment to determine the above appeal. This is against the decision of the Dacorum Borough Council to refuse planning permission for the relocation of an approved dwelling on land adjoining "Wyndcliffe", Shootersway Lane, Berkhamstead. I have considered the written representations made by you and by the council and also those made by other interested persons. I inspected the site on 18 November 1985 and on 13 January 1986.
2. From what I have seen on the site and read in the representations made I have formed the opinion that the main issues in this case are whether the project would be likely to be materially harmful, firstly, to the amenities of neighbours and, secondly, to the appearance or character of the surrounding area.
3. The site lies within the area covered by the Dacorum District Plan which was adopted in 1984. Policies 18 and 66, together with paragraph 5.7 of this document, draw attention to the need for new residential development to take particular regard of; its siting and surroundings; the effect on neighbouring property; and the need to maintain and enhance the quality of existing environments.
4. Recent government advice draws attention to the long established principle that applications for planning permission should always be granted unless they would cause demonstrable harm to interests of acknowledged importance. In this case the council agreed that the site was suitable for residential development when they granted an outline planning permission for a dwelling in October 1983. This planning permission is still valid. Further in January 1985 a proposal very similar to this appeal, for a detached 2 storey dwelling, was granted planning permission by the Borough Council. It seems to me therefore that this appeal turns on whether the siting of the dwelling as now proposed would be so harmful to the amenities of neighbours, and the appearance of the area that it should be resisted; rather than question the principle of the site's suitability for a house.
5. Turning to the first issue, the foundations of the project have been constructed. Due to an alleged surveying error, in estimating the size of the site and the setting-out of the proposed dwelling, the proposed house is now some 5.5 m nearer to the rear boundary of the site than the scheme which was given planning permission in 1985. The new siting would reduce the space between the proposed new house and properties which back onto the site to the north-west. The neighbours

most adversely affected, it seems to me, would be 1 and 2 Crossfield Close; both of which have principal windows which look directly across the appeal site. These dwellings are only about 15 m away from the boundary they share with your client's project. Although the nearest part of the proposed dwelling would come to within about 10.5 m of its rear site boundary this would not to my mind seriously effect the privacy of neighbours. This part of the scheme is a single-storey games room which does not have any windows on its north-western side. The main 2-storey part of the proposed house, which would have principal windows looking north-west, would be sited further back being some 20 m from the rear boundary. The project as repositioned would in my assessment cause neighbours, particularly those to the north-west, some additional loss of privacy. However, an existing boundary hedge and a distance of some 35 m or so would still separate the main facing elevations of opposing dwellings. These factors together with the potential for additional landscaping, including a wall or close boarded fence of suitable height and additional tree and shrub planting, which could be carried out to the site's rear boundary should to my mind reduce any loss of privacy to a fairly minimal level. I do not find therefore that the project would be so harmful to the amenities of nearby residents as to necessitate the withholding of planning permission.

6. Regarding the second issue, the proposed house would be to the same, quite attractive, design which was previously approved. However, the siting as now suggested would give more space between Shootersway Lane and the front of the proposed dwelling. The resulting appearance in the lane, particularly the new spatial relationship with "The Tree House" and "Wyndcliffe" would to my mind be considerably improved. I particularly refer to the additional land that would be available for new frontage landscaping; trees and hedges are a particularly important feature of the front gardens of houses here. Also moving the proposed house further to the north-west would improve the chances of survival of an existing tree close to the lane which is protected by a Preservation Order.

7. The surveying error has reduced the size of the appeal site; it is only an average depth of about 42 m as opposed to some 45 m as previously shown. Although the proposed house would be quite large for its site, compared to some houses in Shootersway Lane, I do not find that the project would be excessively cramped in comparison with other developments nearby. This part of Shootersway Lane is more intensively developed than generally. Further although the revised scheme does not provide so much space to the rear of the plot in my assessment it does not unacceptably interfere with the 'open' nature of this part of the site. To my mind therefore the project would not be materially damaging to the appearance or character of the surrounding residential area.

8. I have also considered a question raised in the representations regarding the continued validity of the previous planning permissions. It seems to me that the under-estimation of the size of the application site must cast some small doubts on the continued validity of the most recent, detailed planning permission; this in part has led to the new planning application which is the subject of this appeal. However, the surveying error does not in my judgement bring into question the original outline permission given in 1983. It is the outline permission which accepts the principle of a new dwelling on this site.

9. I shall allow this appeal. However, I shall make the planning permission a conditional one. It seems to me that additional landscaping is required particularly to the front and rear site boundaries to reduce the effects of overlooking to reasonable levels and to help the project integrate more satisfactorily with its surroundings. Also although I find that the scheme would not be materially harmful to neighbours, as proposed, it could once built be altered without planning permission in such a way which would cause an unacceptable loss of privacy, particularly at the rear. Some permitted development rights will therefore be withheld to bring this potential problem under planning control.

10. I have considered all the other matters raised including; the previous appeal decision on other land in Shootersway Lane, the allegation that the project is a purely speculative one and the suggestion that if allowed the first floor bedroom windows of the proposed dwelling should be glazed in obscure glass; but none are so compelling as to change my conclusions on the material considerations which have led to my decision. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the relocation of an approved dwelling on land adjoining "Wyndcliffe", Shootersway Lane, Berkhamstead in accordance with the terms of the application (No: 4/0633/85) dated 20 May 1985 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. no further work shall take place on the site until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development;

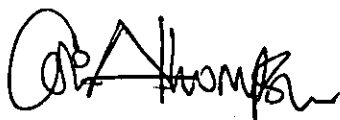
3. all planting in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from completion of development die, 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;

4. notwithstanding the provisions of the Town and Country Planning General Development Order 1977 (or any order revoking and re-enacting that Order) no external enlargements, improvement or other alterations shall be made to the games room without the express of the local planning authority.

11. Attention is drawn to the fact that 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 approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

12. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Sir
Your obedient Servant



C A THOMPSON · DiplArch DiptP RIBA MRTPI Reg Architect
Inspector