

EB

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

## Common Services

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GTN 2074

**CHIEF EXECUTIVE  
OFFICER**

17 FEB 1986

File 4.

CFO 17/2



Geoffrey V Bunyan Esq  
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HP1 1LF

PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL					GTN 2074 Your ref.
Ref.				Act.	
C.P.O.	D.P.	D.C.	B.C.	Admin.	Our ref.
					File T/AE
					Date
Received		18 FEB 1986			
Comments					

14 FEB 86

~~1) MB~~  
~~2) CB~~  
~~3) JENNIFER~~  
~~4) TEAM 1~~

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY T AND B CONSTRUCTION LIMITED  
APPLICATION NO:- 4/0704/85

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the erection of 3 dwellings on land at the rear of High Beeches, Tile Kiln Lane, Hemel Hempstead, Hertfordshire. 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 7 January 1986.
2. You confirmed at the site visit that the notice of refusal, and hence the appeal, relates to Drawing No. Sand/0011/NAJ, but that the dimensions of the dwellings shown thereon are inaccurate. The dwellings proposed are as shown on the 1:50 plans of elevations and floor plans. You further confirmed that the garage proposed for the most north-easterly dwelling is Type A, on Plan GAR 1. I am determining the appeal on this basis.
3. From my inspection of the site and its surroundings, and the representations received, I consider that there are 2 main issues in this case. These are, firstly, whether the proposal would constitute an over-development of the site, out of character with the surrounding residential area; and secondly, the likely effect of the development on the beech tree, in the adjoining garden of 3 Caro Lane, which is the subject of a Tree Preservation Order.
4. I have had regard to the adopted Dacorum District Plan, which includes the site within the urban area of Hemel Hempstead, and to a number of its more specific policies, concerning environmental guidelines for new buildings, particularly residential development, and those which seek to protect trees and woodlands. I have been guided by advice contained in Circular 22/80, recently repeated in Circular 31/85 about aesthetic control, especially that referring to aspects of design which are significant for the aesthetic quality of the area, and in Circular 36/78, especially Section X, on Trees and Development.
5. I could see from my site inspection that Kinderscout is a generally relatively low density, good quality residential area, and your clients' proposals, together with the 3 dwellings already permitted to the south-east of the appeal site, would be a continuation of that development.
6. You state that the development subject of this appeal would embody similar characteristics in terms of density, size and style of dwellings and general layout

as has been permitted on adjoining land, including land owned by your clients. You consider that the Borough Council, having permitted the 3 dwellings on the adjoining site should also, in view of the similarities, have permitted the development subject of this appeal. I note, however, that the appeal site is smaller in that it does not extend as far back from the proposed estate road as does the adjoining site to the south-east. This difference is reflected in the proposed layout of the 2 developments. Whereas the dwellings in the permitted scheme are stepped back, thereby allowing a greater depth of front garden for 2 of those 3 dwellings, the appeal proposals indicate 3 dwellings observing approximately the same front building line. I conclude, therefore, that there is a significant difference between these 2 schemes, which would result in a more spacious appearance in the case of the permitted scheme. I accept that allowances must be made for the inaccuracies on Plan Sand/0011/NAJ, in that 2 houses would be wider, and the dwelling nearest the north-east boundary of the site would be 2.1 m narrower, but, having taken all these matters into account, and compared the proposal with nearby development, both existing and permitted, I come to the conclusion that the appeal proposals would result in an unacceptably cramped appearance, out of character with that which predominates nearby.

7. Concerning the beech tree which I note is about 3 m beyond the north-east site boundary, we agreed, with the Council's representative, that it is probably in the order of 30 m in height, with one branch in particular extending over the site at about 6 m above ground level. You pointed out to me that the crown, which extends over the site, had been lifted by the removal of, from what we could see, 7 or 8 lower branches. Overall, however, my impression of the tree was that it is a fine specimen and, as it can be seen from many points in the neighbourhood, one of great aesthetic value. I recognise that the relationship between tree roots and buildings is a complex matter and, although I have allowed for the discrepancy on the plans concerning the size and hence the possible altered position of the nearest dwelling to the tree, I am most concerned about the damage which might be caused to its roots, and the consequence of this for the remainder of the tree.

8. I note what you say about the determination and declining vigour of the tree and the environmental changes which have taken place in the surroundings but, although I accept that absolute certainty about the life expectancy of the tree probably cannot be established, I am not persuaded, on the evidence before me, that the tree cannot continue to make a valuable contribution to the neighbourhood for the foreseeable future. Furthermore, I agree that, were the development to be permitted, pressure for lopping the tree would be likely, and this might be unreasonable to resist. I thus conclude that, notwithstanding the planning permission for 2 dwellings on the site, with one approximately 8 m from the tree, the proximity of this tree to the site is an additional reason for regarding the principle of 2, rather than 3 dwellings on the site as the maximum number which should be achieved.

9. I have had regard to all the other matters raised in the representations. These include increased traffic and danger, car parking, the position of the proposed detached garage at the eastern boundary of the site and the infill plots on Tile Kiln Lane which you pointed out to me. They do not, however, outweigh the considerations which have led to my decision.

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

I am Sir  
Your obedient Servant

*Richard E. Hollox*

~~RICHARD E. HOLLOX~~ BA (Hons) BSc (Econ) (Hons) MPhil ARICS FRTPI  
Inspector

DP

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

## DACORUM BOROUGH COUNCIL

To T & B Constructions Ltd., Sandhurst Developments Ltd.,  
8 Hamilton Road, 62A High Street,  
St. Albans, Potters Bar,  
Herts. Herts.

..... Three dwellings .....
.....
at ..... Rear High Beeches, .....
..... Tile Kiln Lane, Hemel Hempstead, Herts, .....

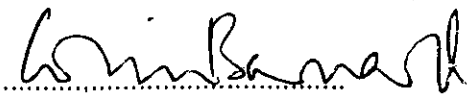
Brief  
description  
and location  
of proposed  
development.

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 ..... 20th May 1985 ..... and received with sufficient particulars on ..... 10th June 1985 ..... 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 proposed development would represent over-development of this particular site, affect adversely visual and general amenities and detract from the character of the area.
2. The proposed development would have an adverse effect on a prominent, mature and protected tree.

Dated ..... 24th ..... day of ..... July ..... 19 85...

Signed.....  .....

Chief Planning Officer

SEE NOTES OVERLEAF

P/D.15

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.