



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

Common Services

Room 1417 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 927

Switchboard 0272-218811

GTN 2074

Received 20 JUL 1987

A E King Esq BA (Hons) BPL MRTPI  
Dovecot Barn  
Alder Park Meadows  
Long Marsten  
TRING  
Herts

Comments

21237

**CHIEF EXECUTIVE  
OFFICER**

20 JUL 1987

File Ref. ....  
Refer to .... C.P.O. 207.  
Clerk .....

Your reference

Our reference

T/APP/A1910/A/87/62619/P4

Date

17 JUL 87

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY J L PHILLIPS LTD  
APPLICATION NO:- 4/0715/86

1. 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 outline planning permission for a detached house and detached double garage at 2 Woodlands Avenue, Berkhamstead. 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 27 April 1987.

2. The appeal site comprises approximately the eastern half of the plot of 2 Woodlands Avenue, which contains a semi-detached dwelling and detached garage, and has a return frontage of some 50 m to Swing Gate Lane. This is a residential area, comprising mainly terraced and semi-detached dwellings with some newer detached properties, opposite the appeal site, in Swing Gate Lane. The lane rises from the main Watford to Aylesbury road, which is to the north, towards the appeal site. After about one-third of the depth of the site the gradient increases sharply and the rear of the site is almost at the height of the house at the front. The appeal site is bordered on its road frontages by a mature hedge. The footpath of Swing Gate Lane, which is stepped by the site, has mature trees on its grass verge.

3. The proposal shows on the illustrative plan, a detached house, where the present garage is sited, with a double width garage by the rear boundary extending behind the garden to be retained by No 2. The removal of a Silver maple on the verge and a willow on the site would be required in order to provide access to the garage.

4. From my inspection of the site and the surrounding area and consideration of the representations, I consider the main issues to be whether the proposal would have a detrimental impact on the street scene and provide an access unacceptable in terms of road safety.

5. Because the rear part of the appeal site particularly is so prominent, it makes a marked contribution to the appearance of the street. The proposed garage is of a size which, coupled with the loss of trees and part of the hedge, would look out of place and would be likely to dominate the street to its detriment. I agree with the council that the silver maple tree has considerable amenity value, whose loss would not be met by the planting proposed.

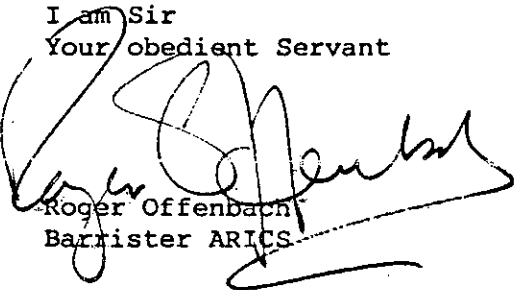
6. The Council have raised a road safety issue in their statement. They say that adequate visibility for the garage driveway cannot be provided due to a 1.4 m. high retaining wall to the south, and the boundary hedge. The steep gradient requires, in my opinion, particular care to be exercised in considering whether satisfactory visibility splays can be provided. My own observations confirm the Council's objection, and I therefore consider that the visibility would be inadequate. I have considered whether it would be feasible to site the garage elsewhere. However, there are difficulties over its position and the access which I do not consider can be overcome by a condition requiring it to be relocated.

7. Rather than be infill development the project seeks to extend the built-upfrontage. This in itself would not be a reason to refuse permission for a site, within a residential area such as this, which is large enough to accommodate an additional dwelling. You suggest that the site lies behind a building line which you have drawn along Swing Gate Lane. I do not consider that there is any relationship between the 2 buildings you have chosen to use for this exercise, and therefore cannot see any justification for the suggested line. As this appeal is concerned with an outline planning application I have therefore used the illustrative plans and elevations as a guide only in my consideration of the likely impact on the street scene of a dwelling of the type proposed. Any development of this site would be visually associated more with the properties in Woodlands Avenue than in Swing Gate Lane. In my opinion the proposal would be out of keeping, have a detrimental effect on the appearance of the road, and would tend to make the neighbouring properties seem unduly cramped.

8. I have taken into account all the other matters raised in the representations including the development sites you referred to. I did not find sufficient similarity to the appeal site for them to be used as examples which could assist my deliberations. In the circumstances, therefore, none of the factors, other than those referred to in the foregoing paragraphs, were sufficiently cogent to have led me to a different conclusion.

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

I am Sir  
Your obedient Servant



Roger Offenbach  
Barrister ARICS

Inspector

Department of the Environment  
2 Marsham Street  
LONDON SW1P 3EB

Under the provisions of Section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

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

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case maybe, has exceeded his powers); or
2. 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 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To J. L. Phillips Limited  
Hammer Lane  
Adeyfield  
Hemel Hempstead  
Herts

Mr. A. E. King  
Wetherby House  
The Hemmings  
Shootersway  
Berkhamsted, Herts

..... Detached dwelling and double garage - outline .....

.....

at 2 Woodlands Avenue, Berkhamsted, 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 19.5.86. .... and received with sufficient particulars on 20.5.86. .... 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 application site occupies a prominent corner site at the junction of Woodlands Avenue and Swing Gate Lane. The erection of a dwelling in this location would be out of character with surrounding development and affect adversely visual and general amenities.
- (2) The access to the proposed garage would necessitate the felling of an established Silver Maple tree to the detriment of the amenities of the area.

Dated 15 day of July 19 86

Signed 

#### 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.