

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

## DACORUM BOROUGH COUNCIL

To

Mr and Mrs Marsh  
53 Hillfield Road  
Hemel Hempstead

Mr J G Lewis  
117 Chambersbury Lane  
Hemel Hempstead

..... Balcony railings above floor extension external .....  
..... alterations .....  
at .... 53 Hillfield Road, Hemel Hempstead .....

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 ..... 11th July 1985 ..... and received with sufficient particulars on ..... 12th July 1985 ..... and shown on the plan(s) accompanying such application..

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

The use of the balcony as a sitting out area would result in overlooking of the adjoining private garden and a loss of privacy for the occupants of the adjoining house.

Dated ..... 19th ..... day of ..... September ..... 19 85 .....

Signed.....

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.

16949



# Department of the Environment and Department of Transport

Common Services

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CHIEF EXECUTIVE  
OFFICER

3 JUL 1986

File Ref. ....

CPO

927

CPO

Mr K G Marsh  
53 Hillfield Road  
HEMEL HEMPSTEAD  
Herts  
HP2 4AB

*Handwritten:*  
3) Done  
4) Done

Your reference				
Our reference: TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9				
Ref: APP/A1910/A/86/043219/P2				
Date: 30 JUN 86				
C.P.O.	D.P.	Admin.	File	
Received -4 JUL 1986				
Comments				
SCHEDULE 9				

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND  
APPLICATION NO:- 4/0864/85

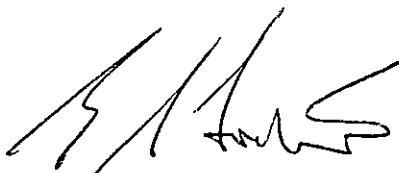
- As you know I have been appointed by the Secretary of State for the Environment to determine your appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the first floor balcony with railings and an access door from bedroom at 53 Hillfield Road, Hemel Hempstead, Herts. 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 6 May 1986.
- From my inspection of the site and its surroundings and the written representations made I am of the opinion that the main issue in this appeal is whether or not the use of the balcony which has already been provided with a balustrade and an access door from the bedroom, as a sitting out area would harm the amenities of adjoining property to an unacceptable degree.
- The Council refused permission for the reason that the use of the balcony as a sitting out area would result in overlooking of the adjoining private garden and a loss of privacy for the occupants of the adjoining house.
- In your grounds of appeal and written representations you disputed the Council's reasons for refusal and stated that the balcony did not decrease your neighbour's privacy since existing windows at the rear of your house provided the same view. You pointed out that there had been a complete screening of the adjoining garden (No 55 Hillfield Road) by a line of tall fir trees until they had been cut down recently and that it was not therefore the balcony but the felling which had opened up the view and reduced the privacy that had previously existed. You referred to the adjoining neighbours' future plans for building along the west side of their house which would substantially reduce overlooking. You contended that the balcony had limited access, would be used only as a private sunning area and would be screened by evergreen shrubs in tubs to avoid any adverse effect on neighbouring properties. You emphasised that you had taken great care to consult the occupants of 51 and 55 Highfield Road and affirmed that they offered no objections.
- I have carefully considered all the points you have put forward in support of your appeal including the comments in your letters of 9 May 1986 regarding a letter dated 27 March 1986 from the occupants of 49 Highfield Road. I sympathise with your wish to make use of the balcony as proposed and I well understand your concern that the cutting down of the trees along the boundary of the next door garden has opened

up the outlook at the backs of your house and your neighbour's whereas previously a dense screen existed between the gardens. However, it is clear from my inspection that the balcony provides a platform from which a relatively high level, close and unrestricted view, of the back of 55 Highfield Road and its garden is available and that as the Council pointed out, the view is wider than would normally be obtainable from a bedroom. I note that in the interest of maintaining your own seclusion and protect your neighbours from direct overlooking you would place screening shrubs around the edge of the balcony and would readily accept a condition to this effect but I do not consider that these measures would avoid the possibility of overlooking or the intrusive impression that the use of the balcony would create. Nor do I think that a conditional permission would be appropriate as it could not in practice be enforced satisfactorily by the Council. It is my opinion that the use of the balcony would harm the amenities of 55 Highfield Road to an unacceptable degree by reason of overlooking and loss of privacy. The fact that the present owners have not objected does not in my view invalidate this conclusion since the amenities of the property must be safeguarded from future occupiers.

6. I have considered all other matters raised including your points that there is no objection from the occupants of No 51 and that the objection from the occupants of No 49 is unjustified. I accept that the balcony would not appreciably affect the amenities of No 49 but I think that No 51 would be affected to some extent because its rear garden is nearer. Nevertheless it is separated from your house by the driveway of Hillfield Court and the balcony use would accordingly have significantly less impact upon No 51 than on No 55. It is the effect upon this house which I find unsatisfactory. There are no other matters of sufficient weight to make me alter my decision.

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

I am Sir  
Your obedient Servant



E S FOSTER  
Inspector