



# PLANNING

Civic Centre Marlowes  
Hemel Hempstead  
Herts HP1 1HH

MR M WALDEN  
33 SWING GATE LANE  
BERKHAMSTED  
HERTS  
HP4 2LN

Applicant:  
MR S J HEXT  
2 CLARENCE ROAD  
BERKHAMSTED  
HERTS  
HP4 3DQ

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/00937/97/RET

31 CROSS OAK ROAD, BERKHAMSTED, HERTS, HP4 3EH  
RETENTION OF OUTBUILDING AND EXTERNAL ALTERATIONS

Your application for retention of development already carried out dated 6 May 1997 and received on 11 June 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 25 September 1997

**REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00937/97/RET**

Date of Decision: 25 September 1997

1. The building, due to its height, mass and bulk, would adversely affect the visual and general amenities and detract from the character of the area.
2. The materials used within the construction of the building are inappropriate and harmful to the character and appearance of the designated conservation area.



# The Planning Inspectorate

*DA, CB, Julie*

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Chief Planning Officer  
Dacorum Borough Council  
Civic Centre  
Hemel Hempstead  
Herts.  
HP1 1HH

Your Ref:  
4/00937/97/RET  
Our Ref:  
APP/A1910/A/98/292966

Date: 10 June 1998

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990  
APPEAL BY MR S J HEXT  
SITE AT 31 CROSS OAK ROAD, BERKHAMSTED

I enclose a copy of our inspector's decision letter.

Yours faithfully

*pg RCL*  
K G PITCHERS

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PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						
Ref.	App.					
Det.	D.P.	D.C.	B.C.	Armed.	FE	
Received		12 JUN 1998				
Comments						



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Mr M Walden  
33 Swing Gate Lane  
BERKHAMSTED  
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Dacorum Borough Council					
Ref	Your Ref:				
D.P.	D.P.	D.C.	B.C.	AGM	Our Ref:
					T/APP/A1910/A/98/292966/P7
Received 12 JUN 1998				Date 10 JUN 1998	
Comments					

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY MR S J HEXT  
APPLICATION NO: 4/00937/97/RET

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of the Dacorum Borough Council to refuse planning permission for the reinstatement of a building at the rear of 31 Cross Oak Road, Berkhamsted. I have considered all the written representations together with all other material submitted to me. I inspected the site on 3 June 1998.

2. For the purposes of clarification I confirm that the reinstatement referred to in the application is in fact the retention of an existing building. The proposal also involves proposed alterations to the building as constructed, involving the removal of existing doors and windows, the installation of a garage door, and the replacement of openings and a section of blockwork with bricks to match the remainder of the building. These features are indicated on drawing No. R:\PROJECTS\WALDEN\6002. I will consider the appeal on this basis.

3. From my consideration of the written representations submitted and my visit to the site and its surroundings I consider that there is a single main issue in this appeal. That is, the effect of the retention of the building on the character and appearance of the locality, which is within the Berkhamsted Conservation Area.

4. The development plan comprises the Hertfordshire County Structure Plan Review, Incorporating Approved Alterations 1991, together with the Dacorum Borough Local Plan which was adopted in April 1995. Policies 47 and 48 of the Structure Plan seek to ensure that development protects and enhances existing settlements. Local Plan Policies 8 and 9 require that developments are of a standard which respect existing townscape and character, and do not adversely affect, or where appropriate enhance, historical or architectural features. Policy 110 states that development in conservation areas will be permitted when it preserves and enhances the established character of the area.

5. The planning history of the existing building is relatively complex. In essence, however, it is clear that planning permission was granted by the Council for a garage on the appeal site in 1990 (ref: 4/1088/90). A building similar to that permitted has been erected, although it differs in dimension and detail. In addition, the constructional materials were not approved in writing by the Council, although I note that your client maintains that verbal approval for the materials used was obtained.

6. The Council have indicated that the building erected is some 6.1m in height, whereas that permitted was shown as 5.3m in height. The building is also slightly longer than permitted, though somewhat narrower. In terms of the overall bulk of the building it seems to me that the difference between that permitted and that built is relatively insignificant. Although the greatest difference is in its height, there are other buildings nearby which are higher and have a greater visual impact on the locality. I note in particular the buildings to the south, including the cottages on both sides of Middle Road. I conclude, therefore, that there is no material difference in mass and form of the building permitted compared with that built.

7. Your client has indicated his intention to remove those windows and doors which were installed at first floor gable level, and to replace the personnel door and window on the east elevation. The retention of a personnel door in the rear of the building, and the installation of a smaller garage door to the east, would be at variance with the permitted scheme, but in principle the development would be little different visually. For these reasons I find that the height, mass, bulk and design of the building as erected would have no materially different effect on the character or appearance of the area than that previously permitted.

8. The Council have expressed concern in respect of the materials used during construction. I agree that the bricks used are not a precise match with the older buildings in the area. However, on my site visit I noted that many variations in building materials exist locally, with some modern brickwork in close proximity to the appeal site. It seems to me that the brickwork of the building is not so radically different to its neighbours that it detracts from the character of the area, and in any case I would expect the tone of the bricks to mellow with age. The replacement of the concrete block panel on the north elevation, with matching brickwork, would improve the appearance of the building. In my view, therefore, the bricks used to construct the building preserve the character and appearance of the area, and I do not find that painting or rendering and painting the building would offer any material improvement in appearance.

9. The planning permission granted in 1990 was for a garage of similar design, but was granted prior to inclusion of the site in a conservation area. There appears to be no dispute that development commenced within the five year statutory period, even though it diverted from the permitted plans during construction. Nevertheless it is clear that permission for a building of this type on the site was in existence when the conservation area was designated in March 1994. In my view it would be possible to alter the existing building to bring it within the ambit of the 1990 permission, without completely removing it. Whilst this might involve substantial works, in reality it leads to the conclusion that a similar building is likely to remain on site.

10. Policy 110 of the Local Plan states that planning permission will be granted when proposed development in conservation areas would both preserve and enhance the established

character. The policy does not indicate that developments which preserve, but do not enhance, character will be refused. The judgement of whether a proposal preserves or enhances the character or appearance of a conservation area is incorporated in the test set out in S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

11. The test set out in S.72 is accepted by the Council and mentioned in paragraph 5.3 of its appeal statement. I have already concluded that the height, mass, bulk and design of the building, and the external brickwork, do not detract from the character of the area. Similarly, when assessed in the light of the test set out in S.72 I take the view that your client's proposal would preserve the character and appearance of the conservation area. As such it would not conflict with the development plan policies I identified earlier.

12. Overall, therefore, I consider that the likelihood of a building remaining on site, together with fact that the proposal would preserve the character and appearance of the area and would not conflict with policy, leads me to the conclusion that the proposal is acceptable. I will therefore turn to the matter of conditions.

13. I agree with the Council that a timber garage door would be more in keeping, and could be required by condition. This would preserve the character and appearance of the area. A condition requiring that the building is altered in accordance with the submitted details within a fixed period would also be reasonable and necessary for a similar reason. In order to provide adequate parking provision at the property it would be reasonable to impose a condition requiring the garage to be kept available for the parking of a private motor vehicle. Circular 11/95 advises that conditions withdrawing permitted development rights should only be imposed in exceptional circumstances, and in this case I am not aware of any such circumstances. Consequently I do not propose to impose such conditions as suggested by the Council, in relation to the building.

14. In reaching my conclusions on this appeal I have had regard to all other matters brought to my attention, including the previous enforcement appeal. However it is clear that my colleague on that occasion had no opportunity to consider the planning merits of the case now before me. I have also considered the suitability of the artificial slate roofing and uPVC fascias, both of which were criticised by the Council in its report to Committee. These are not matters raised by you or the Council in statements on the appeal, and I find that these materials do not detract from the character and appearance of the area. Consequently neither these nor any other matter is sufficient to outweigh the considerations which have led me to my decision.

15. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the retention and alteration of the existing building at 31 Cross Oak Road, Berkhamsted in accordance with the terms of the application (No 4/00937/97/RET) dated 6 May 1997 and the plans submitted therewith, subject to the following conditions:

1. the bricks to be used in patching the brickwork on the external surfaces of the building shall match those existing;
2. notwithstanding the details on drawing No R:\PROJECTS\WALDEN\6002 the garage door to be inserted in the east elevation of the building shall be of a design and materials to be agreed in writing with the local planning authority;

3. the removal of windows and door, removal of blockwork and patching of brickwork shown on drawing No R:\PROJECTS\WALDEN\6002, together with the installation of the garage door in the east elevation, shall be undertaken within six months of the date of this permission;

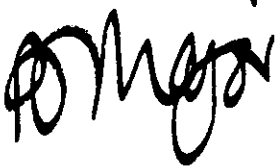
4. the garage shall be kept available at all times for the parking of a private motor vehicle.

16. These conditions require further matters to be agreed by the local planning authority. There is a right of appeal to the Secretary of State if they refuse any such application, fail to give a decision within the prescribed period, or grant a conditional approval.

17. 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.

18. Your attention is drawn to the provisions of Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area (as defined in Circular 14/97).

Yours faithfully

A handwritten signature in black ink, appearing to read 'P Major', is written over the typed name.

PHILIP MAJOR BA(Hons) DipTP MRTPI  
Inspector