



The Planning Inspectorate

1/99

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Andrew King and Associates
21 Gilpins Ride
BERKHAMPSTEAD
Herts
HP4 2PD

Date: - 4 JAN 1999

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 & SCHEDULE 6
APPEAL BY CHIPPERFIELD LAND COMPANY LTD.
APPLICATION NO: 4/01074/97/FUL**

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 one detached house, amended from an application for the erection of 2 houses, on land at 10 Hillfield Road, Hemel Hempstead. I held a local inquiry on 25 November 1998. At the inquiry, an application was made on behalf of the appellant for an award of costs against the Council. This is the subject of a separate letter.

2. The appeal site is part of the garden of 10 Hillfield Road, which was a bungalow that has been demolished. Two detached houses have now been built on the rest of the site of no. 10, fronting onto Hillfield Road. The appeal site has been separated from that development, and lies to the rear of the new houses with a frontage onto Walnut Grove. During the course of negotiations at the application stage, the proposal was substantially amended and the Council's decision was taken in respect of a scheme for one detached house at the rear of no. 10 Hillfield Road, with the formation of a new access onto Walnut Drive, which is the proposal now before me in this appeal.

ISSUES

3. From what I have read, seen and heard, I consider that the main issues in this case are firstly, the effect of this proposal upon the character and appearance of the area and secondly, whether or not the proposed access arrangements would be satisfactory.

POLICY

4. The development plan for this area comprises the Hertfordshire Structure Plan Review, 1991-2011, together with the Dacorum Borough Local Plan. The relevant policies which have been put before me in this appeal are contained in the local plan. Policy 7, which deals generally with land use divisions, encourages appropriate residential development in residential areas and states that undeveloped or unused land should be brought into the appropriate primary use in the future. Policy 8 sets out general criteria seeking a high standard in all development proposals and Policy 101 sets out more specific criteria for residential development. Policy 51 expects new development proposals to meet current

general and local standards for highway design and access. The Environmental Guidelines in the local plan set out detailed considerations for the layout and design of residential areas. Reference has also been made to the Council's Supplementary Planning Guidance on Development in Residential Areas.

CHARACTER AND APPEARANCE

5. The appeal site is situated in a residential area close to the town centre and the Hospital. Hillfield Road is characterised mainly by detached houses and bungalows, some in quite large plots. Walnut Grove is a more modern development comprising semi-detached and terraced houses. The area is identified in the Council's supplementary guidance as an opportunity area in terms of scope for residential development. Residential development on unused land would be encouraged in general terms by Policy 7 in the local plan and also by the guidance given in Planning Policy Guidance Note 3 (PPG3), "Housing", subject to sensitive control to ensure that the character and amenity of the area would not be damaged.

6. Taking the first issue, the Council believes that this proposal, together with the two new houses fronting Hillfield Road, would result in an overdevelopment of the site of the former no.10., and that this would have a harmful effect upon the character of the area. The Council maintains that this site remains a part of Hillfield Road and that this proposal must be considered as a part of the overall proposals for the site of the former no. 10. It was argued on behalf of the appellant that this is a wrong approach and that the main consideration should be whether or not one house on this appeal site would be an overdevelopment in the context of the character of the development around it. To my mind, this is the correct approach. The Council accepts that the 2 houses now built fronting Hillfield Road are satisfactory and they have been built in accordance with the permission granted with curtilages which exclude the appeal site. This scheme should, therefore, be considered on its own merits as a proposal for one house on this vacant site.

7. I consider that the appeal site relates primarily to Walnut Grove and that this proposal should be considered in terms of the character of Walnut Grove rather than Hillfield Road. It has been shown, on behalf of the appellant, that this proposal would represent a density of development which is comparable to that of nearby housing in Walnut Grove. The Council has raised no issue with the scale or design of the proposal. Although it would be detached, the proposed house would relate well to the adjoining terraced houses in terms of height, scale and being set back and down from the road. The house would be quite different in detail design, reflecting the adjoining new houses recently built, but this would represent a transition between Hillfield Road and Walnut Grove, and I see no reason why the proposal would result in particular harm to the street scene.

8. It was submitted, on behalf of the appellant, that the proposal meets all the requirements of the criteria in Policy 101 in the local plan and the standards set out in the Environmental Guidelines. This was accepted by the Council, with the exception of rear garden length. The Environmental Guidelines require rear gardens to have a minimum length of 11.5 metres, with a greater, but unspecified, length expected for detached houses. The garden in this proposal would have a length of some 11.8 metres reducing to a little over 9 metres in an area to the rear of the garage. Levels at the end of the plot drop steeply to the boundary, but I do not consider that this would render the space unusable or lacking in amenity value. Overall, I take the view that this garden would meet the Council's minimum standard across much of its width, offering a reasonably functional level of provision, and

I do not consider that inadequate garden provision would be a sound reason for withholding permission for the proposal.

9. The Council is also keen to maintain the openness of this land, to act as a natural break between the more spacious development in Hillfield Road and the denser development in Walnut Grove. However, I do not consider that this proposal would be out of keeping with the general spacial characteristics of nearby development or that any loss of openness on this particular site would result in any especial harm to the character of the area. To my mind, of more importance to the local character of the area is the open verge area on the opposite side of the road and a small group of trees along this side of Walnut Grove, which are covered by a Tree Preservation Order.

10. I have given consideration to the effect of this proposal upon these nearby trees, in particular a yew which immediately adjoins the site. The formation of the proposed access would necessitate the pruning of approximately 1.2 metres from the side of the yew, which I consider could be done without particularly harming the appearance or threatening the health of the tree. The appellant has proposed extensive measures for the protection of the tree during the course of development, including protective fencing, the construction of the driveway by a "no dig method", the routing of services and drainage, the provision of temporary steel plates across the main affected root area and a construction method which would prevent heavy lorries entering the site. These measures can be secured by conditions attached to any permission granted, as has been suggested by the Council, and in my view, they would give a reasonable likelihood that the tree would remain unharmed. I also consider that the yew is a sufficient distance from the proposed house that it would be unlikely for there to be pressures for its felling or lopping to allow more light into the plot.

11. Overall, therefore, in the first issue, I have concluded that this proposal would not have any significantly harmful effect upon the character and appearance of this area, and that it would not conflict with the Council's policies and guidelines in that regard.

ACCESS

12. Turning to the second issue, the proposed access would come onto Walnut Grove a the side of an existing garage building belonging to the adjoining terraced houses. Following initial concern at the proximity of the access to the garage, and the consequent effect upon visibility to the south along Walnut Grove or onto the immediately adjoining pavement, the access was redesigned to position it 2 metres away from the garage. This enables the provision of a 2 metre by 2 metre visibility splay from the back of the footpath, which would enable pedestrians to have warning of an emerging vehicle in accordance with the advice in paragraph 5 of Annex D to Planning Policy Guidance Note 13 (PPG13), "Transport". There would also be a sight line of 2 metres by 75 metres to the south along Walnut Grove, in the direction of on-coming traffic on this side of the road, which would accord with the advice in PPG13 for an area where most vehicles would not be travelling at speeds over 30 mph.. It was argued on behalf of the appellant, therefore, that this proposed access fully accords with standards set out in PPG13 and accords with Policy 51 in the local plan in that respect.

13. The Council is nevertheless not satisfied that the access would be safe. It was acknowledged on behalf of the Council that the normal visibility requirements would be met "on paper", but argued that the access would be dangerous because it would still be very close to the adjoining garage sited just behind the pavement, because of the gradient of the

drive leading off behind the pavement, and due to the unusual angle at which it would meet the highway. The Council is also concerned that vehicles may be reversed out from the drive, putting pedestrians at particular risk, especially children, of whom a considerable number live in Walnut Grove. It was pointed out that this pavement is the only footpath from Walnut Grove out onto Hillfield Road, as there is not a path on the other side of the road northwards up to the junction.

14. Although the Council refers to an unusual angle at which the proposed access would meet the highway, this would in fact be at almost 90 degrees, with the drive curving away slightly after it has crossed the pavement. To my mind, there is nothing particularly unusual or untoward about that arrangement. As for gradients, you have indicated that the finished drive level would fall at a gradient of 1 in 18 over the first 7 metres back from the Walnut Grove carriageway. Behind that it would fall at an average gradient of 1 in 12 to the proposed garage. The Highway Authority has an informal guideline which seeks to achieve a maximum gradient of 1 in 10 for driveways to houses. The proposal would, therefore, accord with the Council's normal requirements.

15. As for possible problems from cars reversing out along the drive, the submitted drawing shows the provision of turning area to the front of the proposed house. The Council sought to have this deleted at the application stage, due to concern that it would stand at a higher level than no.1 Walnut Grove adjoining. You have now submitted further information on levels and have shown that it could be graded down to finish at a level similar to the ground floor level of no.1, and I see no reason why this turning area should not be provided. It was acknowledged on behalf of the appellant that the turning area may not always be used by the occupiers of the proposed house, or by visitors, but that it is a situation which exists at many houses. I have also noted the concerns of the occupier of no.1 about fumes from vehicles using the turning area, but there would be a fence to give protection from the direct effect of fumes and this is not, in my view, a matter upon which the case turns or for which permission should be withheld for that reason.

16. I have also noted the concerns of residents that Walnut Grove is heavily parked and that there is a high demand for parking from the Hospital and also people visiting offices and other nearby town centre facilities. It was suggested that this parking would effect the available visibility along the sight lines. I saw at my visit to the site that, despite cars parked along the road south from the site, visibility not significantly impaired. There was also concern that the proposed access would result in the loss of an on-street car parking space, as well as itself generating additional demand for parking space, but I am not convinced that this would add significantly to car parking problems in the area.

17. Overall in the second issue, it is evident that the Council is seeking to achieve visibility standards for this proposed access in excess of the normal standards advised in PPG13, and I have not been persuaded that there are any overriding reasons why there should be such a requirement. The access would meet the normal requirements set out in PPG13 and it is my conclusion that it would meet the expectation of Policy 51 in the local plan to meet current general and local standards and that it would, therefore, be satisfactory.

CONCLUSIONS

18. I have taken into account all other matters raised, but have found nothing which outweighs the factors which have led me to my decision and I propose to allow this appeal.

CONDITIONS

19. The Council has suggested, in addition to the statutory time limitation, a number of conditions. Proposed condition 2 would require the submission and approval of samples of the external finishing materials, and as these have not been fully specified in the application I consider this to be reasonable. Proposed conditions 3 to 9 deal with the proposed construction method and measures for the protection of the yew tree and other trees covered by the TPO. I have concluded above that these measures are reasonable and necessary to protect the adjoining trees. Proposed condition 10 would require the provision and maintenance of the 2 metre by 2 metre visibility splay, which is necessary for the protection of pedestrians.

20. Proposed condition 11 would require that, notwithstanding details shown on the submitted drawings, the driveway should not exceed a gradient of 1 in 10 for the first 6 metres from the carriageway, and also that the ridge level of the new house should not exceed that of no. 1 Walnut Grove. I consider these to be reasonable requirements for highway safety and to secure a satisfactory form of development. This condition as drafted also seeks to remove the proposed turning area from the permission, but that is no longer sought by the Council now that it has been shown that this can be graded down to the level of the adjoining house.

21. A further condition was proposed requiring levels of the turning area to be approved by the Council, and I consider this to be necessary so as to protect the living conditions of the adjoining occupiers. Proposed condition 12 would require the permanent retention of the fences along the south and west boundaries and the erection of a fence along the northern boundary. A fence has now been erected along the northern boundary, and I am satisfied that the condition should refer to the retention of fencing along all three boundaries, again to protect the living conditions of adjoining occupiers.

22. Proposed condition 13 seeks to remove permitted development rights for extensions to the house, for additional buildings in the curtilage or for additional hard-surfacing. It would also remove permitted development rights for additional walls, fences or other means of enclosure and for the formation of another access. In view of the somewhat restricted nature of this particular plot, I consider it reasonable for permitted development rights for extensions or ancillary buildings to be removed, but I see no reason why hard surfacing or means of enclosure should be further restricted. As for another access, there is no other possibility to provide one and that part of the condition is unnecessary. Proposed condition 14 would require the windows in the flank elevations to be fitted with obscure glass, which I consider to be reasonable for the protection of privacy.

DECISION

23. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for one detached house at the rear of no. 10 Hillfield Road, with the formation of a new access onto Walnut Drive, Hemel Hempstead in accordance with the terms of the application (No 4/01074/97/FUL) dated 2 July 1997 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of five years from the date of this permission;

2. no development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority; development shall be carried out in accordance with the approved details;
3. notwithstanding the details of fencing shown on drawing no. HR102C, protective fencing of 2.5 m. high sterling board on scaffold mounting shall be erected in the position shown by the purple line on drawing HR102C; this fencing shall be erected before any work is started on any part of the development and shall not be removed until agreed in writing by the local planning authority;
4. the driveway shown on drawing no. HR102C shall be constructed by a "no dig method" in accordance with figures 4 and 5 of the Arboricultural Advisory and Information Services (AAIS) Advisory Practice Note No. 1 entitled "Driveways Close to Trees"; a concrete upstand of 300 mm. shall be erected along the entire length of the southern side of the vehicular access (as coloured red on drawing no. HR102C) before the first occupation of the dwelling and thereafter shall be permanently retained;
5. the crown spread of the protected yew tree shown as 'T' on drawing no. HR102C shall be reduced in spread by a maximum of 1.2 m. on its southern side only; all works shall be carried out in accordance with BS 3998: 1989 (Recommendation for Tree Work), and before any work is carried out the extent of works shall be agreed on site with a representative of the local planning authority;
6. with the exception of the requirements of condition 7, the only route for gas, electricity telephone and other services shall be within the area hatched black on drawing HR102C;
7. all surface and foul water drainage shall only be provided in accordance with the details shown on drawing HR102C;
8. with the exception of the installation of temporary plates specified under point 1 of the submitted *construction method statement* dated 23 March 1998, the development shall be carried out in accordance with points 2 to 7 inclusive of the *construction method statement* throughout the development and the area hatched blue on drawing no. HR102C shall be the only section of driveway used for construction traffic;
9. the area hatched green on drawing HR102C shall not be used for any form of storage during the construction of the development hereby permitted; this area shall not be used for the parking of vehicles at any time and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out within this area without the prior approval of the local planning authority;
10. the dwelling hereby permitted shall not be occupied until the vehicular access, garage and parking area hatched brown on drawing HR102C have been provided and

a 2 m. by 2 m. visibility splay has been provided to each side of the vehicular access, as measured from the rear edge of the footpath; within the visibility splays there shall be no obstruction to visibility between 600 mm. and 2 m. above footpath level;

11. notwithstanding the levels details shown on drawings HR102C and HR202B, the gradient of the access drive shall not exceed 1 in 10 for the first 6 m. from the carriageway edge; the ridge height of the dwellinghouse shall not exceed that of no. 1 Walnut Grove;

12. the vehicular turning area shall be constructed in accordance with levels to be agreed in writing by the local planning authority;

13. the existing fencing along the north, south and western boundaries of the site shall be permanently retained unless the local planning authority agrees in writing to any variation;

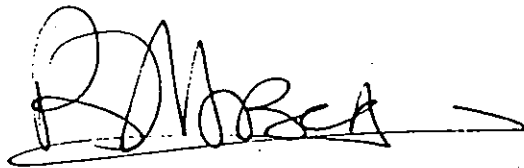
14. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development falling within Schedule 2, Part I, Classes A and E shall be carried out without the prior written approval of the local planning authority;

15. the windows in the side elevations of the dwelling hereby permitted shall be fitted with obscure glass.

24. 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.

25. 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.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R D Hiscox', with a long horizontal line extending to the right.

R D HISCOX MA(Oxon) DipTP ARICS MRTPI
Inspector



PLANNING

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Applicant:

CHIPPERFIELD LAND COMPANY LTD
KINGS WORKS
KINGS LANE
CHIPPERFIELD
HERTS

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01074/97/FUL

10 HILLFIELD ROAD, HEMEL HEMPSTEAD, HERTS, HP2 4AB
ERECTION OF DETACHED DWELLING HOUSE AND FORMATION OF NEW
ACCESS

Your application for full planning permission dated 02 July 1997 and received on 04 July 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 11 June 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01074/97/FUL

Date of Decision: 11 June 1998

- 1. The proposed access drive has very poor visibility to the right for traffic leaving the site, which, coupled with the gradient of the access, is likely to give rise to conditions prejudicial to road safety.**
- 2. The proposal, together with the two new dwellings fronting Hillfield Road, represents an overdevelopment of the site of the former 10 Hillfield Road, resulting in a development which would be out of character with the surrounding area and which would have a harmful effect on the amenity of Walnut Grove.**