



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Andrew King and Associates
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Bulbourne
TRING
Herts
HP23 5QG

Your Ref:

Our Ref:

T/APP/A1910/A/95/260745/P5

Date:

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						
Re 29 AUG 1996						Ack.
D.P.		DP	D.C.	B.C.	Admin.	File
Received - 2 SEP 1996						
Comments						
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6 APPEAL BY MARK SIMON DEVELOPMENTS LTD APPLICATION NO: 4/1091/95						

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MARK SIMON DEVELOPMENTS LTD
APPLICATION NO: 4/1091/95

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the Dacorum Borough Council to refuse planning permission in respect of an application for the erection of three houses on land adj. to Greenhill Court, Beechfield Road, Hemel Hempstead. I conducted a hearing into the appeal on Tuesday 6 August 1996.

2. Prior to the determination of the application by the Council the number of houses was reduced to two in order to comply with the requirements of the Appellants' arboricultural consultant. My decision is based on the amended proposal for the erection of a pair of semi-detached houses.

3. From my inspection of the appeal site and its surroundings and from the written representations made, I am of the opinion that the main issues in this appeal are whether the proposal would cause undue harm to the character and appearance of the area having regard to the trees growing within the site.

4. The appeal site is an irregular shaped area of land fronting the east side of Beechfield Road. It includes part of the private drive serving two blocks of flats to the south of the site, known as Greenhill Court and The Beeches. The site slopes up steeply from Beechfield Road to the rear of the site. There are a number of mature trees growing on the site which appear to have received little maintenance or management for a number of years. The development in the surrounding area is predominantly residential.

5. The trees growing on the site are the subject of Group Tree Preservation Order 268 made by the Council on 2 October 1995. They are a mixture of broadleaved and coniferous trees which include ash, beech, cherry, larch, lime, sycamore and yew. The classification of the 32 trees in terms of BS 5837:1991 is Category B 10, Category C 14 and Category D 8.



6. The Council refer to Policies 47, 48 and 49 of the Hertfordshire County Structure Plan Review, Incorporating Approved Alterations 1991, operative from 14 July 1992. The Appellants refer to Policies 57, 71 and 72.

7. Both sides refer to Policies 7 and 8 of the Dacorum Borough Local Plan, adopted on 12 April 1995. The Council also refer to Policies 1, 9, 13 and 94.

8. Dealing with the main issue, the character of the area derives mainly from the residential development comprising a wide range of dwellings of a variety of ages and styles. They include flats, terraced properties and detached houses. The group of trees on the appeal site are an important attractive feature in the street scene. Together with other nearby trees they are clearly seen from many public vantage points. They provide welcome relief from the harsh visual impact of the urban development.

9. The proposed pair of semi-detached houses would be located towards the centre of the site. The erection of the building would require the felling of trees T10 to T22 inclusive, that is some 13 of the 32 trees. Of this number 5 are Category B, 4 in Category C and 4 in Category D. A significant number of trees would be retained at the front and rear of the site. They would screen the proposed building from view to a substantial degree. More importantly, they would be seen from most public vantage points in the surrounding area. The scheme provides for additional tree planting, including some along the road frontage. These new trees could complement the existing trees and could be of a type which would grow to some size. This could be covered by a condition. I have come to the conclusion that the loss of the trees which would have to be felled in the course of the proposed development would not diminish the important contribution the group of trees make to the character and appearance of the area to an unacceptable degree.

10. I deal now with the risks to the trees during the construction period. At the hearing the Appellants prepared a sketch plan showing a strip of land within which the services to the proposed houses would be laid and the lines of foul and surface water drains. In my opinion these would be a practical proposition which would not result in direct damage to the roots of any remaining tree. Fencing, in accordance with BS 5837:1991, could be erected round the trees to protect them during the construction period. It would be possible to provide space for storing materials on the site and to erect the building using mechanical plant on land outside the protected zones. Significant parts of the proposed parking bay and footpath serving the houses lie within the protected zones. However, they could be constructed with little or no excavation due to the existing ground levels and in accordance with the requirements of Section 11 of BS 5837:1991 and the advice in the Arboricultural Practice Note, Driveways Close to Trees. A form of construction in line with this advice could be used to provide temporary access within the protected zones for plant and materials during the construction period. These protective measures could be covered by a condition. Provided that these measures are implemented I conclude that the proposed development could be completed with no undue risk to the short and long term health of the trees.

11. The Council are concerned that they would be subject to pressure by the future residents of the dwellings to lop severely or to remove the trees due to loss of sunlight, daylight, outlook and safety problems.

12. The condition of the remaining trees could be improved before the houses are first occupied as part of the proposed development by thinning their crowns and removing any

dead branches. This would reduce the probability of branches falling from the trees for some time and the future residents' perception of risks to their safety. Whilst some of the trees would be close to the houses I do not consider that they would prevent sunlight or daylight entering the buildings or dominate the outlook from the dwellings to an unacceptable degree. Whilst there would be significant shading of the amenity areas by the trees there would also be areas in direct sunlight, giving people a choice of where to relax outdoors. There is a risk that the leaves from the trees would cause some maintenance problems and that honeydew would be deposited on cars stood in the parking bay. However, potential purchasers would be able to see the trees and assess the effects of the trees on their general living conditions when they visited the site. Many people would find these disadvantages outweighed by the benefits of living in the attractive setting provided by the trees. They would be likely to care for the trees and not seek their removal or lop them severely. In any event a proposal to lop severely or remove the trees would be subject to an application to the local planning authority under the terms of the Tree Preservation Order, of which the future occupiers would be aware. I find nothing in the proposed development which indicates that there would a proliferation of such applications which the Council would be unable to resist, if that was their decision.

13. I have taken account of all the other matters in the representations, but I am of the opinion that they do not outweigh the considerations that have led me to my decision.

14. The Council request that conditions be imposed to cover six issues. I will impose a condition relating to the external appearance of the building to ensure it is sympathetic to the character and appearance of the area. For the reasons stated earlier I intend to impose a condition requiring details of the construction of the parking area and footways to be submitted to the Council and that they be completed before the dwellings are first occupied. It is necessary to impose the conditions of Circular 11/95 for the provision for additional trees and the protection of the existing trees which are to be retained to ensure that the proposed development does not harm the character and appearance of the area. My decision, in part, is based on no excavation near trees. I am satisfied that this can be achieved. However, I consider that it is necessary to impose a condition requiring sectional details showing existing and proposed levels to be submitted to the local planning authority to ensure this. In order to protect the long term life of the retained trees I agree with both the main parties that it is necessary to remove the permitted development rights of the future occupiers of the dwellings relating to extensions and alterations of the building and the provision of hardstandings on the site. In my view it is not necessary to prevent the standing of other buildings (not subject to the express granting of planning permission) on the site because these would be unlikely to harm the trees.

15. For the above reasons and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of two houses on land adj. to Greenhill Court, Beechfield Road, Hemel Hempstead in accordance with the terms of the application No 4/1091/95 dated 23 August 1995 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this letter.
2. No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted,

including samples, have been submitted to and approved in writing by the local planning authority. The dwellings shall not be occupied until the buildings have been completed entirely in accordance with the approved details.

3. Development shall not begin until details of the type of construction of the parking bay and the footways serving the proposed dwellings have been submitted and approved in writing by the local planning authority; the approved scheme shall be carried out in its entirety in accordance with the approved details before the dwellings are first occupied.

4. The parking bay shall not thereafter be used for any purpose other than the parking of vehicles.

5. Development shall not begin until details of sections through the site showing existing and proposed levels of the proposed building, parking bay and footways serving the dwellings have been submitted and approved in writing by the local planning authority; the approved scheme shall be carried out in its entirety in accordance with the approved details before the dwellings are first occupied.

6. No works or development shall take place until full details of all proposed tree planting and any proposed topping or lopping of any retained tree together with the proposed times of planting, topping or lopping have been approved in writing by the local planning authority, and all tree planting, topping or lopping shall be carried out in accordance with those details and at those times

7. If within a period of two years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

8. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the occupation of the dwellings.

- (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998.
- (b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- (c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars

before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

9. Pursuant to condition 8(c) development shall not commence until details of fencing for the protection of any retained tree, temporary access arrangements and storage of materials on the site, including any within the protected zones round the retained trees, shall be submitted and approved in writing by the local planning authority; the approved scheme shall be carried out in accordance with the approved details.

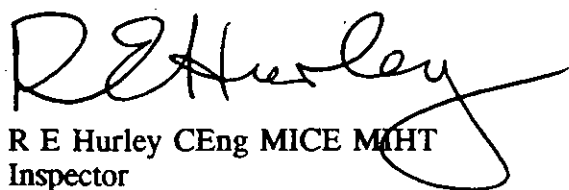
10. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings, hereby approved, shall be erected unless expressly authorised by planning permission granted by the local planning authority.

11. 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 hardstanding areas shall be provided on the site unless expressly authorised by planning permission granted by the local planning authority.

16. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their planning decision within the prescribed period.

17. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Yours faithfully,


R E Hurley CEng MICE MHT
Inspector

APPEARANCES

FOR THE APPELLANTS

- | | | |
|--|---|---|
| Mr A E King BA(Hons) BPL
MRTPI | - | Principal of Andrew King Associates, Folly
Bridge House, Bulbourne, Tring. HP23 5QC. |
| Mr P H Bridgeman NDH
NDArb MICFor FArbA | - | Principal of Arboricultural Consultancy Service,
4 Shortheath Road Farnham. GU9 8SR. |
| Mr A Simon | - | of Mark Simon Developments Ltd. |

FOR THE LOCAL PLANNING AUTHORITY

- | | | |
|---|---|---|
| Mr P Newton BA(Hons)
MRTPI | - | Senior Planning Officer with the Authority. |
| Mr M Delaney NCH City and
Guilds Arboriculture | - | Woodlands Assistant with the Authority. |

DOCUMENTS

- | | | |
|----------------|---|---|
| Document 1 | - | List of persons present at the hearing. |
| Document 2 | - | Notification letter of the hearing and list of persons
circulated. |
| Document 3 A&B | - | Two letters received in response to the notification letter. |
| Document 4 | - | Tree Preservation Order 268. |
| Document 5 | - | Extracts from Dacorum Borough Local Plan Written
Statement submitted by the Council. |
| Document 6 | - | Extracts from Dacorum Borough Local Plan submitted
by the Council. |
| Document 7 | - | Extracts from Herts. County Structure Plan Review
submitted by the Council. |
| Document 8 | - | Proposed residential landscape layout. |
| Document 9 | - | Protection zones for trees. |

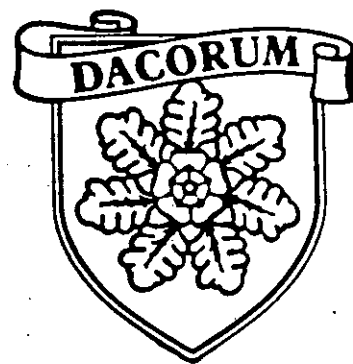
- Document 10 - BS 5837:1991. A guide for trees in relation to construction.
- Document 11 - NJUG Guidelines for the planning, installation and maintenance of utility services in proximity to trees.
- Document 12 - List of conditions suggested by the Council.
- Document 13 - Extracts from Herts. County Structure Plan Review submitted by the appellants.
- Document 14 - Extracts from Dacorum Borough Local Plan Written Statement submitted by the appellants.
- Document 15 A&B - Letters to Mark Simon Developments Ltd from their arboricultural advisor. 20:4:95. 24:10:95
- Document 16 - Sketch overlay showing appellants' view of important trees to retain.
- Document 17 - Extract from BS 5837:1991 submitted by the appellants.
- Document 18 - Section 11 of BS 5836 and AAIS APN1 "Driveways close to Trees.

PLANS

- Plan A - Application plans.
- Plan B - Plan showing suggested line of channel for service ducts, foul and surface water drains.

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL



Application Ref No. 4/1091/95

Mark Simon Developments Ltd
George House
High Street
Tring
Herts

Mr A.King
Folly Bridge House
Bulbourne
Tring
Herts HP23 5QG

DEVELOPMENT ADDRESS AND DESCRIPTION
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Land at Greenhill Court, Beechfield Road, Hemel Hempstead, Herts

TWO HOUSES

Your application for *full planning permission* dated 23.08.1995 and received on 24.08.1995 has been **REFUSED**, for the reasons set out on the attached sheet(s).

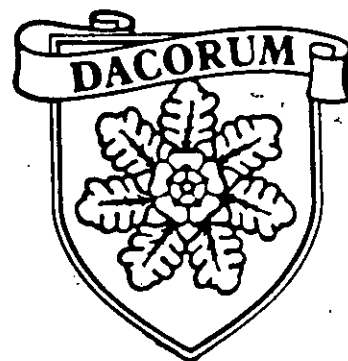
Director of Planning

Date of Decision: 15.11.1995

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/1091/95

Date of Decision: 15.11.1995



There are a number of significant trees on the site which are covered by a Tree Preservation Order. The proposed development would necessitate removal or severe pruning of a number of these trees which would considerably reduce their amenity value to the detriment of the visual amenity of the area.