



The Planning Inspectorate

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

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Your Ref:

Our Ref:

T/APP/A1910/A/95/260746/P7

Date:

30 OCT 1996

RECEIVED
30 OCT 1996
- 1 NOV 1996
Comments

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY CHIPPERFIELD LAND COMPANY LTD
APPLICATION NO: 4/1109/95

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 2 bungalows, 2 houses and access on land at the end of Marwood Close, Kings Langley. I held a local inquiry into the appeal on 14 and 16 August 1996. 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. At the inquiry a drawing (reference No. VS1196A) was submitted showing how a 2.5m x 45m west bound visibility splay could be provided on land within the highway at the junction of Marwood Close and Vicarage Lane. The Council accepted that the provision of such a visibility splay could be dealt with by the imposition of an appropriately worded planning condition on any planning permission that might be granted. As a result they confirmed that they would not be pursuing their highway reason for refusal, except insofar as it related to the environmental impact of the proposed works. A further, unnumbered drawing was submitted showing how the slab level of plot 4 could be lowered. It was however agreed at the inquiry that the matter of slab levels could be dealt with by way of a planning condition, if it was considered appropriate. A third drawing, contained at appendix 11 to the proof submitted in support of your client's proposal, showed how the house on plot 3 could be moved forward by 1.5m. On behalf of your client it was suggested that this could be dealt with as an amendment to the submitted plan. The Council did not agree and stated, that had the application still been before them, they would have re-advertised any such amendment. I note that the proposed change would move the house on plot 3 nearer to the property at 4 Marwood Close. It is, therefore, in my opinion, a material change in the nature of the proposed development that would necessitate further publicity, if the opportunities for

interested persons to make comment on the proposals are not to be prejudiced. Consequently I will determine the application on the basis of the submitted drawings. It was also confirmed that the north point shown on the submitted drawings was incorrect and that the correct orientation of the proposed dwellings is shown on the drawing contained at appendix 11 to your proof.

3. From all that I have read, heard and seen I consider there are 4 main issues. These are, firstly, the effect of the proposed development on the character and appearance of the area; secondly, whether the proposed house on plot no. 4 would have an overbearing impact on the living conditions of the occupants of 5 Marwood Close; thirdly, whether the relationships of the houses on plots 3 and 4 would lead to unacceptable daylight and sunlight levels at the rear windows and in the garden of the house on plot 4; and fourthly, whether the existing houses at 5 and 6 Le Corte Close would dominate the setting of the proposed bungalows on plots 1 and 2 leading to unacceptable levels of privacy for the occupants of these bungalows.

4. The development plan for the area comprises the Hertfordshire County Structure Plan Incorporating Approved Alterations 1992 (SP) and the Dacorum Local Plan (DBLP) adopted on 12 April 1995. Particular reference has been made to SP Policies 57 and 72 and DBLP Policies 2, 7, 8 and 101 which variously seek to ensure that housing development achieves a high standard of design, the creation of a good environment, compatibility with the general character of the area and avoids harm to adjacent properties. In addition DBLP Policy 9 refers to environmental guidelines amplifying the criteria in Policy 8. Whilst development proposals should normally meet these guidelines the Council recognises that in some cases circumstances may arise where the application of the guidelines needs to be tightened or can be relaxed.

THE FIRST ISSUE.

5. The appeal site is an undeveloped area of land lying between Vicarage Lane to the north and Langley Hill to the south. It has been assembled from the gardens of houses fronting onto Langley Hill. Over the last 30 years or so, other housing developments have been built in the area on former garden land to the east, west and north of the site. Marwood Close, built in the 1970's, is one such housing area and it is from this cul-de-sac that the proposed development would be served. The sites slope from west to east with existing houses at 5 and 6 Le Corte Close set at a higher level, and those at 5 and 6 Marwood Close set at a lower level, than the proposed dwellings. Dealing with the first issue, the layout of the existing dwellings and the presence of mature landscaping combine to give the area an attractive spacious feel. Nonetheless, its character remains fairly typical of a medium density residential area containing houses of different ages and styles. The appeal site occupies a focal point at the end of Marwood Close and its current open aspect would be closed off by the proposed development, particularly by the houses on plots 3 and 4. These 2 dwellings with their closely spaced gable walls would result in a fairly tight urban form, although this would be relieved, to some extent, by the proposed stagger between them and by the proposed landscaping. On balance I am of the view that this form of development would be acceptable in the area. The bungalows proposed on plots 1 and 2 would not be widely visible and would not, in my opinion, detract significantly from the visual continuity of this predominantly two-storey housing area. It is common ground between the parties that the appeal site is suitable for housing. From my inspection of the site and its surroundings, I formed the opinion that the density of the proposed development, the spacing and appearance

of the proposed dwellings, and the provision of landscaping would not be markedly dissimilar to that of other groups of houses in the area.

6. The western sight line of the junction of Marwood Close and Vicarage Lane is, and has been for a number of years, sub-standard when judged against relevant guidelines in Planning Policy Guidance 13: *Transport*. It has been suggested on behalf of your client that improvements to this sight line could be carried out on land outside their ownership and control. Details of such works have not been finalised. They could, however, include some regrading to existing banks, the construction of small sections of retaining wall, the removal of small sections of existing walls and the trimming of vegetation to achieve a visibility splay of 2.5m x 45m between 0.6m and 2m above the carriageway. The appearance of this section of Vicarage Lane is determined, in part, by the presence of trees, shrubs and grass banks inter-mixed with hard landscaping features such as walls, drives and footpaths. If the suggested works were carried out their visual impact would be minor and would not, in my view, create a heavily engineered access significantly altering the mixture of hard and soft landscape features in the area. I therefore conclude that neither the proposed dwellings nor their proposed access arrangements would have an unacceptable impact on the character or appearance of the area.

THE SECOND ISSUE

7. It was established at the inquiry that the slab level of the proposed house on plot 4 would be some 2.7m higher than that of the house at 5 Marwood Close and that it would be located to the south west of that house. The separation distance between the flank walls of these properties would be in the order of 11m and there will be no direct overlooking between windows to habitable rooms in these elevations. I saw on my site inspection that, when it is in full leaf, the apple tree in the garden of 5 Marwood Close provides an effective partial screen. The orientation of the dwellings is such that 5 Marwood Close would not be overshadowed for much of the day. I accept that there would be a pronounced change in levels between these two houses but, in my opinion, the separation distance between them would be sufficient and their orientation would be such that the proposed house on plot 4 would not have an overbearing impact on 5 Marwood Close. This leads me to conclude that the proposed development would not have an unacceptably oppressive effect on the living conditions of the occupants of 5 Marwood Close.

THE THIRD ISSUE

8. The adjoining gable walls of the houses on plots 3 and 4 would be some 2m apart, with the house on plot 3 set back some 6m from the house on plot 4. The house on plot 3 would be approximately 0.45m higher than the house on plot 4 and the rear elevations of both properties would face almost due south. The Council's environmental guidelines require that a 45° angle of light should be maintained, as a basic minimum, to all significant windows to habitable rooms. The proposed arrangement of houses on plots 3 and 4 would breach this requirement in respect of the dining room and one bedroom. However, I saw on my site inspection that similar spacings and arrangements of dwellings can be found elsewhere in the area. I also note that the orientation of these dwellings would be such that the windows in question, and that part of the garden nearest to the house on plot 4, would receive full sunlight until mid-afternoon. The Local Planning Authority accepted that, when the scheme was assessed in the light of the correct north point, the overshadowing would not be as dramatic as they had supposed. They did however maintain their objection to the proposals.

The purpose of the Council's environmental guideline is to ensure adequate levels of sunlight and daylight. Given the proposed orientation of these dwellings, I am of the opinion that their positioning would not result in unacceptable levels of sunlight and daylight at the windows of the dining room and the affected bedroom on plot 4, or to the garden area of that house. I therefore conclude that this is a case in which the Council's environmental guidelines can be relaxed.

THE FOURTH ISSUE

9. This concerns the relationship between the proposed bungalows on plot 1 and 2 and the houses at 5 and 6 Le Corte Close. It was agreed at the inquiry that the slab level of these bungalows would be some 3.3m lower than the slab level of the houses in question and that their rear elevations would be some 25m apart. They would be separated by a 1.8m high screen fence and a group of trees, including a yew, would provide additional screening between the bungalow on plot 2 and the house at 5 Le Corte Close. Clearly these houses would be a prominent feature in the outlook from the garden and rear windows of the proposed bungalows. I appreciate the Council's concern about the difference in levels between these dwellings, but their proposed separation distance exceeds the minimum required by the Council's environmental standards and the proposed screen fence would, in my judgement, prevent direct overlooking between the ground floor windows and gardens of these properties. In these circumstances I therefore conclude that the proposed development would provide adequate levels of privacy for the occupiers of these bungalows.

CONCLUSIONS

10. Drawing together my findings on the main issues I conclude that the proposed development would not cause harm in respect of any of the main issues identified and would meet the requirements of SP Policies 57 and 72 and of DBLP Policies 2, 7, 8, 9 and 101. I intend therefore to allow the appeal. The Council has suggested a number of conditions which they consider should be imposed. In my view the majority of these are necessary. However following consideration of the advice contained in Circular 11/95 (the conditions circular) I have not, in all cases, followed the wording proposed by the Council.

11. The proposed development would generate additional traffic at the sub-standard Marwood Close/Vicarage Lane Junction. In the interests of highway safety a condition requiring improvement of visibility at this junction is, therefore, required. It was accepted at the inquiry that these works could be carried out on land within the highway. This condition therefore meets the test set out in paragraph 40 of the annex to the conditions circular. In view of the on-street parking problems experienced on Marwood Close a condition is necessary to ensure the retention of the proposed garages. Landscaping conditions are required to ensure that the approved details are implemented. Conditions controlling levels and drainage are needed as these matters have not been fully resolved. A condition regarding materials is necessary to ensure that the development is in character with the surrounding area. To protect the living conditions and privacy of the occupants of adjoining dwellings a condition covering the type of bathroom window used on the house at plot 4 is required, as is a condition restricting the creation of window openings in the gable walls of the proposed houses on plots 3 and 4.

12. As there is no means of vehicular access to the site, other than that proposed, it is not necessary to impose a condition requiring the construction of the road between the turning

head of Marwood Close and the site. Fencing details are specified on the submitted plans and do not need to be dealt with by a condition. On a scheme of this scale with little provision of amenity space a landscape management plan is not necessary. The obscure glazing of bathroom windows is a standard feature in modern houses and does not need to be dealt with by planning condition.

13. I have taken into account all other matters raised in written representations and at the inquiry, including the concerns expressed by a third party about overshadowing of the garden of the bungalow on plot 1, but none is sufficient to override the considerations which have led to my conclusions.

14. For the above reasons and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the construction of 2 bungalows, 2 houses and access on land at the end of Marwood Close, Kings Langley in accordance with the terms of the application No. 4/1109/95 dated 30 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 permission;
2. development shall not commence until improvements to the western visibility splay at the junction of Marwood Close and Vicarage Lane have been implemented in accordance with specified works approved in writing by the local highway authority in consultation with the local planning authority.
3. 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), the garages hereby permitted shall be kept available for the parking of private cars;
4. no development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
5. all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority give written consent to any variation;
6. no development shall take place until details of the levels of the floor slabs, drives and road have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details;
7. Construction of the dwellings shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority;

8. no development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings 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;

9. 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 window openings shall be made in the flank walls of the dwellings on plots 3 and 4 without the express written consent of the local planning authority;

10. the bathroom window in the flank wall of the dwelling house on plot 4 shall be of a fixed type unless an alternative top hung window is agreed in writing by the local planning authority.

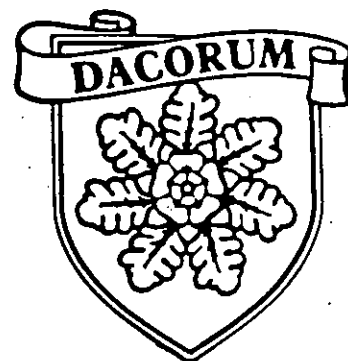
15. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed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

16. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 75 of The Town and Country Planning Act 1990.

Yours faithfully



R J YUILLE MSc DipTP MRTPI
Inspector



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/1109/95

Chipperfield Land Co Ltd
Kings Works
Kings Lane
Chipperfield
HERTS

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

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

17-25 Langley Hill (Rear), (off Marwood Close), Kings Langley

ERECTION OF TWO BUNGALOWS AND TWO HOUSES

Your application for *full planning permission* dated 30.08.1995 and received on 30.08.1995 has been **REFUSED**, for the reasons set out on the attached sheet(s).

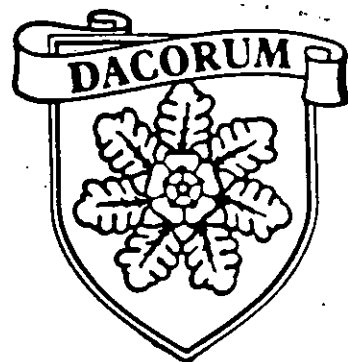
Director of Planning

Date of Decision: 19.10.1995

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/1109/95

Date of Decision: 19.10.1995



In the assessment of any new development s.54 of the Town and Country Planning Act 1990, requires that, unless material considerations indicate otherwise, an application for planning permission shall be determined in accordance with the policies of the Development Plan. Relevant policies in this case aim to ensure that highway safety is not prejudiced and new development is assimilated within the existing environment. The proposal fails to accord with the Development Plan as:

1. The local planning authority is not satisfied that sufficient attention has been given to the suitability of the access to the site due to the substandard junction of Marwood Close with Vicarage Lane where visibility is poor.
2. The proposal is excessive on this sloping and irregular shaped site, creating a cramped form of development which has both a poor relationship with adjoining housing and poor internal layout and form, failing to harmonise with its surroundings.