

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/1335/96

S.D.C Plc  
8 Baltic Street  
London  
EC1Y 0TB

Weightman & Bullen  
3 Wigmore Place  
London  
W1H 9DB

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

Fleurfield, Kingsdale Road, Berkhamsted

DEMOLITION OF EXISTING DWELLING AND ERECTION OF FOUR DETACHED HOUSES

Your application for *outline planning permission* dated 16.10.1996 and received on 17.10.1996 has been **REFUSED**, for the reasons set out on the attached sheet(s).

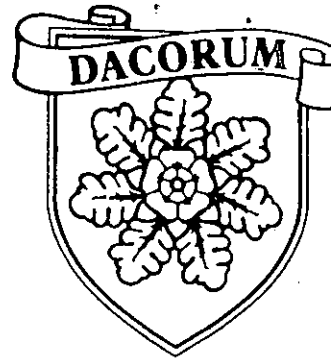
Director of Planning

Date of Decision: 06.12.1996

(ENC Reasons and Notes)

REASONS FOR REFUSAL  
OF APPLICATION: 4/1335/96

Date of Decision: 06.12.1996



1. The proposed development would have an overbearing impact on surrounding development and would have a seriously detrimental effect on the amenities and privacy of surrounding properties.
2. The density of development proposed is excessive and unwarranted in this location and would if permitted prove seriously injurious to the general character and amenity of the area.
3. The proposed development is likely to have an adverse effect on trees within the site which have considerable amenity value and are protected by a Tree Preservation Order.



# The Planning Inspectorate

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

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Mr A King BA(Hons) BPI MRTPI  
Andrew King and Associates  
Folly Bridge House  
Bulbourne  
TRING  
Herts.  
HP23 5QG

Your Ref:

Our Ref:

T/APP/A1910/A/97/277543/P9

Date:

PLANNING DEPARTMENT						
- 6 OCT 1997 - DACORUM BOROUGH COUNCIL						
Ref.					Ack.	
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Received -7 OCT 1997						
Comments						

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY SDC PLC  
APPLICATION NO: 4/1335/96

1. As you know, 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 outline planning permission for the demolition of the existing house and the construction of four detached houses at Fleurfield, Kingsdale Road, Berkhamsted. I conducted a hearing into the appeal on 2 September 1997.
2. At the hearing you confirmed that the layout plan (Plan A2) was illustrative only, and that all matters were reserved for later approval. You also requested on behalf of your client to amend the proposal from four houses to four dwellings and submitted two further illustrative layout plans (Plans B and C). The Council objected to this amendment and to the submission of additional plans. I consider that the proposed amendment is a minor one which would not prejudice the Council's or interested persons' cases. As the proposal is in outline with all matters reserved, the submission of the two additional illustrative plans are, in my opinion, acceptable as they are variations on the principle of accommodating four dwellings on the site. I therefore intend to deal with your client's appeal on the basis of this amendment and the two additional illustrative plans.
3. From what I saw, read and heard and my inspection of the site and its surroundings, I consider that there are two main issues in this case, both having regard to relevant Development Plan policies. The first is the effect the proposal would have on the character and appearance of the surrounding residential area, particularly upon the protected trees. The second issue is the proposal's impact on the living conditions of existing adjoining occupiers and the future occupiers of the proposed dwellings, with particular regard to privacy and overlooking.
4. The Development Plan comprises the Hertfordshire County Structure Plan Review (Alterations 1991) and the Dacorum Borough Local Plan which was adopted in April 1995. Policies 57 and 71 of the Structure Plan direct housing development to within existing towns, provided there is no major adverse environmental impact (policy 71). Policy 49 indicates that development will be concentrated in Berkhamsted. Such housing development should be at as high a density as can be achieved compatible with a high design standard and a good environment (policy 72). Policies 47 and 48 say that the essential character and quality of

existing urban areas will be protected and enhanced, and that the cumulative effects of development should be taken into account.

5. Local Plan policy 7 says that appropriate residential development is encouraged within Berkhamsted (within which the site lies). Policies 8 and 101 of the Local Plan set out a number of criteria for development in general and housing density in particular (supplemented by additional environmental guidelines resulting from policy 9), designed to protect the amenity and existing character of the surrounding area. These criteria include avoiding excessive site coverage, visual intrusion, loss of privacy, and loss of trees and shrubs. Policy 94 gives a high priority to the retention of existing trees and requires an accurate tree survey with development proposals showing trees proposed to be retained or removed.

6. I agree with you that this residential area presently has an attractive and informal appearance within a mature treescape, consisting of a mixture of houses and bungalows of different designs and ages. Most of the properties have wide frontages with well landscaped gardens. The impression given is of substantial properties set in spacious grounds which rise upwards (north and south) on either side of the road, which itself rises from east to west. This character and appearance is still retained on the southern side of the road (which includes the appeal site) even though some of the plots have been sub-divided in recent times.

7. On the first issue, the appeal land rises up from north to south and is surrounded on its four boundaries by a dense screen of trees and shrubs. Most of the trees along the west, south and east boundaries are covered by a Tree Preservation Order (TPO) (Document 8), and the trees along the northern boundary to the road are the subject of a TPO which has yet to be confirmed (Document 9). Fleurfield is a bungalow, as is the adjacent Flintwood and No. 21.

8. The site is constrained by the trees around its boundaries and the rise in levels (which you estimate as 1 in 11). Even with the removal of those trees and shrubs pointed out by you on site, there would be a relatively restricted area for the proposed dwellings, which would be further limited by the level differences. The proposal would result, as you acknowledged at the hearing, in the introduction of higher density housing than that which presently exists. It is clear from the three illustrative layout plans that the proposed dwellings would not fit in with the character of the area - they would have smaller plots and would, of necessity, be smaller buildings. In my view, it would not be possible to design a layout for four dwellings which would not have these shortcomings. The constraints of the site mean that four dwellings would produce a cramped, suburban estate-like development, which would be alien to the existing spacious character and appearance of this area as I have described it.

9. Although you felt that government advice indicates that the existing character of an area need not be slavishly followed and that a higher density than existing can be permitted, Planning Policy Guidance Note 3 (which gives government advice on housing) says that the cumulative effects of redevelopment can damage the character and amenity of established residential areas (paragraph 20). The Guidance Note goes on to say at paragraph 23 that local plans may include density and other policies where there is pressure for development which would seriously threaten the character of a residential area. I consider that to be the case in this instance, and that the proposal would lead to "town cramming".

10. As I have previously mentioned, the site is surrounded by trees, many of which are protected by TPOs. Policy 94 of the Local Plan requires a tree survey where trees are likely to be affected. Similar advice is set out at paragraph 74 of Circular 36/78 which also adds that proposed alterations in ground levels should be indicated. I regard such a survey as vital before any decisions are taken on development proposals affecting this site, but no survey has

been provided. Policy 8 of the Local Plan requires sufficient information and detailed plans to judge the full impact of development proposals. I consider that without the details of the siting of the proposed dwellings on this site (as also advised in Circular 36/78) it is not possible for me to accurately assess the impact of the proposal on the protected trees. In my judgement, the lack of a tree survey and details of the proposed siting of the dwellings are sufficient reasons on their own for me to dismiss your client's appeal.

11. In any event, it is clear from the illustrative layout plans that four dwellings (in any layout arrangement) would adversely affect the protected trees both directly and indirectly. The position of the proposed dwellings and accesses would directly affect the trees and require the loss of some of them. In the absence of the necessary detailed information I am unable to judge whether the trees you pointed out to me on site would be the only ones affected. The trees would also be indirectly affected in the future because of the closeness of the trees to dwellings and access roads. The gardens of the rear plots (however arranged) would have much of their usable area taken up by trees. This would inevitably lead to future pressure for the removal of trees and their pruning or lopping in order to prevent leaf drop, stop overshadowing and create more usable garden space. This would adversely affect the future life expectancy of these trees and their present screening effectiveness.

12. I conclude on this issue that the proposal would have a serious and adverse effect on the present spacious and landscaped appearance of the locality, contrary to relevant Development Plan policies, particularly policies 8 and 101 of the Local Plan. In addition, the proposal provides insufficient information to accurately judge its likely impact upon the protected trees but, based upon the limited evidence available, I consider that the likely tree loss would harm the mature treescape and visual appearance of the area.

13. Turning to the second issue, potential loss of privacy and overlooking are affected by distance, landscape screening and land levels. The two closest existing properties are Flintwood and No. 21. Flintwood has two bedroom windows and an obscure glazed bathroom window in the eastern elevation, and some rear bedroom windows. However, I consider that the existing vegetation screening on the site's western boundary (with some additional planting) and in the rear garden to Flintwood would be sufficient to protect the occupiers. No. 21 has an obscure glazed window in its western elevation and is surrounded on both its boundaries to the site by a brick wall about 1.5 metres high. This wall, together with careful control of the siting and orientation of windows in the proposed dwellings would, I consider, ensure that there was no loss of privacy or overlooking of the occupiers.

14. The houses along most of Kings Road to the east are some distance away (42 to 62 metres) and would also be screened by the existing trees and shrubs along the site's eastern boundary. The exception is No. 61 which is about 13 metres from the boundary. However, the windows to this property (a bungalow) are at an angle to the site boundary and are screened by a hedge, internal planting in the garden, and by a thick band of trees along the site's southern boundary. Overall, I consider that there would be no significant loss of privacy or overlooking to the occupiers of properties along Kings Road. The Glades, to the south-west of the site, is a house with bedroom windows which look towards the site. Despite the higher location of this property, the combination of the distance of some 19 metres from the site boundary, the acute angle of view from the front windows, and the vegetation screening within the garden and along the site's boundaries leads me to a similar conclusion.

15. The steepness of the slope within the site would cause great problems in preventing loss of privacy and overlooking for the future occupiers of the proposed dwellings. On balance, however, I accept your assertion that it would be possible to design dwellings which

would avoid these problems by using careful window and room orientation, and by limiting dwelling heights towards the rear of the site.

16. Although on this second issue I have found that no significant loss of privacy or overlooking would affect existing adjoining occupiers and future occupiers of the proposed dwellings, I consider that the decisive issue is that concerning the proposal's impact on the character and appearance of the area. On that determining issue I have concluded that your client's proposal would seriously harm the character and appearance of this residential area, notwithstanding the limited and inadequate information available on the proposal's impact on the protected trees. For that reason I find that the proposal would be unacceptable.

17. I have taken account of all other matters before me, including residents' concerns about the potential increase in traffic. However, I note that the Council's highways officer had no objections to the proposal and that the highway authority had not objected to other similar proposals in the area. From the evidence submitted to me, I do not consider that the increase in traffic would cause either environmental or highway safety problems. I find nothing of such weight as to override the conclusion which has led to my decision that the proposal is not acceptable.

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

Yours faithfully

A handwritten signature in black ink that reads "David Vickery". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

DAVID VICKERY DipT&CP MRTPI  
Inspector

## APPEARANCES

### FOR THE APPELLANT

- Mr A King BA(Hons) BPI MRTPI - Principal Partner of Andrew King and Associates, Folly Bridge House, Bulbourne, Tring, Herts., HP 23 5QG.
- Mr A Green JP FRICS FRSA - SDC PLC, Quarry House, Bourton on the Hill, Gloucs., GL56 9AJ.
- Mr P Bullen DipArch RIBA - 3 Wigmore Place, London, W1H 9DB.

### FOR THE LOCAL PLANNING AUTHORITY

- Miss F Moloney BA(Hons) DUPI MRTPI - Senior Planning Officer with the Council.
- Mr C Lewis NDH(Arb) Tech Cert Arb (AA) - Woodlands Officer with the Council.

### INTERESTED PERSONS

- Mr K Gay - The Glade, Kingsdale Road, Berkhamsted, Herts., HP43 3BS.
- Mr P Brooks - 61 Kings Road, Berkhamsted, Herts., HP43 3BP.
- Mr P Abbis FRICS - Flintwood, Kingsdale Road, Berkhamsted, Herts., HP43 3BS.

## DOCUMENTS

- Document 1 - List of persons present at the Hearing.
- Document 2 - Council's letter of notification of the Hearing and list of persons notified.
- Document 3 - Bundle of written representations from interested persons.
- Document 4 - Appendices 1 to 7 of Mr King's Statement.
- Document 5 - Appendices A to F of Miss Moloney's Statement.
- Document 6 - Council's list of suggested planning conditions.

- Document 7 - Bundle of written representations from interested persons concerning the original application to the Council.
- Document 8 - Tree Preservation Order 250 dated 23 May 1994.
- Document 9 - Provisional Tree Preservation Order 310 dated 22 August 1997.
- Document 10 - Extracts from British Standard 5837 guide for trees in relation to construction.
- Document 11 - Letter to appellant's architect dated 27 September 1996.

## **PLANS**

- Plans A1 to A2 - The application plans - 1:1250 scale location plan (A1), and 1:1250 scale illustrative layout plan SK/1/B (A2).
- Plan B - Illustrative layout plan.
- Plan C - Illustrative layout plan.
- Plan D - Plan B above with positions of trees covered by the Tree Preservation Orders superimposed, submitted by Mr Gay.
- Plan E - Plan C above with positions of trees covered by the Tree Preservation Orders superimposed, submitted by Mr Gay.