

Team 3
12/96



The Planning Inspectorate

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

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Your Ref:

APPMSGL6

Our Ref:

T/APP/A1910/A/95/254502/P5

Date		15 MAR 1996	
Time		10:10	
By		[Signature]	

Received 18 MAR 1996

Comments: *FF/UK/MS/AD/SM File*
Computers updated
Registers updated
SECTION 78 AND SCHEDULE 6 Julie F
19/3/96

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990,
APPEAL BY THE MICHAEL SHANLY GROUP
APPLICATION NO: 4/1404/94

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 for residential development of two blocks of flats comprising 26No 2 bedroom flats and 6No 1 bedroom flats and associated parking on the former site of Mill House, London Road, Apsley, Hemel Hempstead. I held a local inquiry into the appeal on 20 February and I made an accompanied visit to the site on 23 February 1996.

2. The site includes trees the subject of a Tree Preservation Order (TPO No 254), mostly in a group along the south-eastern and north-eastern sides of the site. The Council accepts the principle of residential development on the land. It does not object to the design of the 2 blocks provided that sound-proofing measures are included to safeguard dwellings from railway noise. The vehicular access would be in a similar position to the one in the recently permitted alternative office scheme and the same agreed trees would need to be removed. A tree management scheme has recently been implemented, of which I saw evidence.

3. From what I have heard, read and seen, I consider the main issue to be the effect of the scheme on the amenity of the site and the appearance of the locality, having regard to the group of preserved trees on the land.

4. The Council's main concern is that the layout as proposed would be too close to certain trees in the main group, threatening their long-term survival. Furthermore, fencing proposed for protecting part of this tree group during construction would be inadequate, and details of routes for services have not been provided, both of which could also result in potential harm to trees. As a result, the Council considers that the scheme would conflict with criteria a), b) and i) of policy 8 of its adopted Local Plan and with criteria a) and c) of policy 94.



5. The appellant company stated that it would be willing to abide by the Council's requirement for more substantial fencing along the south-eastern group, whilst considering such a high level of protection to be unnecessary. The company also agreed to reconsider the retention of TPO trees Nos T38, 39 and 42 within the tapering northern end of the site, shown on the layout to be removed.

6. It is generally accepted that the trees on this site make a significant contribution to the appearance of the area as seen both from the road and the railway. Those in the main group are deciduous; it is their value as a group rather than as individual specimens which is important. Trees at the northern end of the site tend to be smaller in height and are mostly evergreen, ornamental species.

7. I deal first with the 3 TPO trees proposed to be felled within the northern part of the site. I consider their retention would be desirable, as your clients now accept, to help soften and screen what is intended to become an area of mainly hard-surfaced car parking. I am satisfied that their retention could be ensured by making adjustments to the layout and I will impose a condition to this effect in the event of planning permission being granted.

8. With regard to protective fencing, the current reference source for tree protection is the British Standard 'Guide for Trees in relation to construction', BS 5837:1991. Two main types of fencing are suggested in the guide and both are proposed here. It is the lower, chestnut pale fencing to protect the southern group which the Council wishes to see upgraded to the higher standard of solid boarding proposed elsewhere. The plan shows that virtually the whole length of this fence would run beside the only access for construction traffic which would include a piling rig. It would be close to some trees and partially under their canopies. Because of the concentration of heavy plant, machines and other site traffic in such proximity to this important group of trees, I consider that the more robust type of solid board fence 2.4m high should be employed. Since your client company has agreed in principle to such fencing, I see no great difficulty in dealing with the matter also by way of a planning condition.

9. Turning to the effect on individual trees, those numbered T15, T20 and T27 in the TPO are the ones the Council is most concerned about. Table 1 in BS 5837 sets out minimum fencing distances from the centres of trees based upon their age, vigour of growth and trunk diameter. The document also states that such distances can be reduced by up to one third on one side only, provided that a corresponding increase in distances is made in the other directions.

10. In the cases of trees T15 and T20, these are within the south-eastern woodland group and would be slightly closer to the line of the protective fence than in the approved office scheme. From the evidence, the fencing line would still appear to fall within the limits of advice in BS 5837 as neither tree would be disturbed on its other 3 sides. T20 would also be affected by works just inside the fence line where the raised former garden area would need to be regraded for the access road. However, from what I could tell from the sections provided and from my visit, these works would not appear to be extensive within the fence line and in any event would need to be carefully undertaken by hand. I do not consider that the long term survival of either of these trees would be seriously prejudiced by either the position of the fencing or the final layout.

11. Tree T27 on the other hand is a large beech in a more vulnerable and prominent position than the previous two because it is at the top of a steep bank close to the main road. Since trees to the south and west of it would be removed to construct the access and residential block 1, its loss would open up a major gap in the street frontage which in turn would have a significantly harmful impact on the street scene and the site. It is therefore important that proposals for works around this tree are carefully scrutinised to ensure its survival.

12. The Council accepted that the trunk diameter of T27 should correctly be 735mm, which was confirmed on site. There is a difference of opinion as to the tree's vigour of growth which would affect the minimum distance of fencing and works from its trunk. Its vigour is more difficult to ascertain in winter without foliage, but possible tell-tale signs were pointed out to me. Because of its importance to the group and wider area, I consider it would be prudent to err on the side of caution and prefer the Council's assessment of low vigour. Nine metres is therefore the required minimum distance for the fencing as set down in BS 5837. It seems to me that any significant reduction in that distance should be avoided because construction works are already proposed on 2 sides in addition to the existing bank and main road on the third side where roots are less likely to be present. The plan shows fencing as close as about 4 metres in a couple of places.

13. Within the likely root area of the tree it is proposed to construct 3 parking spaces and a bin store. Such light construction works might not be so critical on a flat site where only a thin layer of topsoil need be removed above the critical 600mm depth at which roots are generally found. However, in this location the site is not only undulating but also slopes down to the main road. The parking bays would be taken directly off the vehicular access which would itself be on a slope and cut into the ground. No details have yet been worked out, but it seems to me that excavation works for the bays and bin store could well be fairly deep in places because of the varying ground levels. Therefore, I consider there to be a serious risk that such works could have a harmful effect on a significant root area belonging to that tree, thereby affecting its long-term survival. In view of the potential danger to this important tree, it would seem preferable to avoid any construction work in this area, other than for the access road. Since there may have to be changes to the layout, I do not consider this is a matter which could be dealt with satisfactorily by condition.

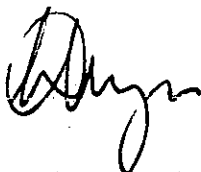
14. Turning to the routes for the underground services, your clients stated that none have so far been finalised for the scheme. The office scheme shows an alignment for services which has been negotiated with the Council, passing between trees T31 and T33 near the existing driveway to the former house. Residential block 2 would be in a similar position to the office block and so I can see little reason why a similar service alignment should not be followed without undue harm to tree roots.

15. The other block No 1 would be close to the new access road just beyond the tree belt. Your clients suggested that services could follow the road alignment, and that would seem logical. However, much would depend upon the alignment and depth of the services. Because of my previous concern over tree T27, I consider it important that such details be worked out and discussed with the Council before development begins. In view of the importance of T27, this is also a matter I consider could not be dealt with adequately by way of condition.

16. In conclusion, there is much about the layout which appears to be acceptable following lengthy negotiation with the Council. I find little objection to the design of the 2 blocks of flats, the access arrangement, parking provision or augmented landscaping. Nevertheless, I am unable to grant planning permission for the project as it stands because of uncertainty over the future of tree T27 in particular, whose potential loss would have a seriously adverse effect on the appearance of the area and result in a development in conflict with Local Plan policy objectives.

17. I have taken account of all the other matters raised, but none affect the considerations which have been influential in my determination of this appeal. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

Yours faithfully



D G HAYES DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr S Bird

of Counsel, instructed by D M Hall Associates.

He called:

Mr S J Dale DipLA, ALI

Director, ACD Landscape Architects Ltd,
The Stables, 3B Wilson Street, London N21 1BP.

FOR THE LOCAL PLANNING AUTHORITY

Mrs A Walker

Senior Solicitor with Dacorum B C.

She called:

Mrs J E Custance BA(Hons), MRTPI

Senior Planning Officer, Development Control, Dacorum B C.

Mr C R P Lewis NDAH, TCA

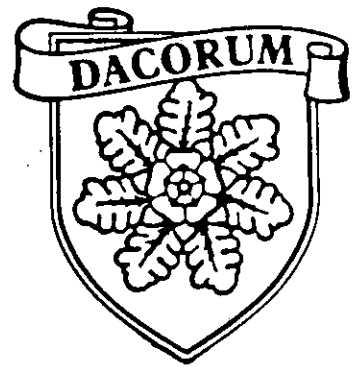
Woodlands Officer, Dacorum B C.

DOCUMENTS

- | | | |
|------------|---|---|
| Document 1 | - | List of persons present at the Inquiry. |
| Document 2 | - | Notification of Inquiry and circulation list. |
| Document 3 | - | Appendices to Mr Dale's proof of evidence. |
| Document 4 | - | Appendices to Mrs Custance's proof of evidence. |
| Document 5 | - | Appendices to Mr Lewis's proof of evidence. |
| Document 6 | - | Letter to Council from Mr Dale which was never sent. |
| Document 7 | - | Leaflet No 6 'Tree Roots' issued by Arboricultural Association. |

PLANS

- | | | |
|--------------|---|-------------------------------------|
| Plan A.1-A.8 | - | Location map and application plans. |
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TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/1404/94

The Michael Shanly Group
"Sorbon"
Aylesbury End
Beaconsfield
Bucks

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

Former Mill House Site, London Road, Hemel Hempstead

RESIDENTIAL DEVELOPMENT 26 NO. 2 BED, 6 NO. 1 BED FLATS AND ASSOCIATED PARKING

Your application for *full planning permission* dated and received on 01.11.1994 has been **REFUSED**, for the reasons set out on the attached sheet(s).

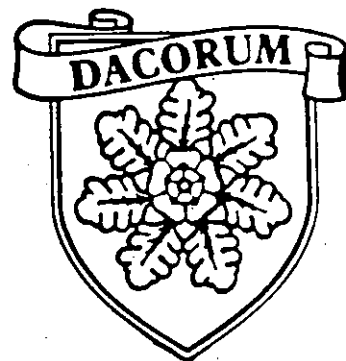
Director of Planning

Date of Decision: 16.05.1995

(ENC Reasons and Notes)

REASONS FOR REFUSAL
OF APPLICATION: 4/1404/94

Date of Decision: 16.05.1995



There are a number of significant trees on the site which are covered by a Tree Preservation Order. Some of the best trees on the site will be directly affected by the construction of the roadway and parking spaces. On the basis of the information provided it is the opinion of the Local Planning Authority that the Beech on the northern side of the access road, and trees in the woodland area in the south of the site are unlikely to survive the proposed works. The type of protective fencing shown on Drawing No. MSG 13337 02 is not adequate to withstand the intense nature of construction activity required. No details of proposed service routes have been provided and the local planning authority is concerned that provision of these essential services could result in further incursions into the wooded parts of the site either undermining the viability of important trees or requiring removal of further trees. The loss of yet further trees on this site would considerably reduce the amenity value of remaining trees and would be detrimental to the visual amenity of the area and contrary to the aims of Policies 8 and 4 of the adopted Dacorum Borough Local Plan.