



PLANNING

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Applicant:

MR & MRS J SALMOND
OAKLEIGH
SHOOTERSWAY LANE
BERKHAMSTED
HERTS
HP4 3NW

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01523/98/OUT

OAKLEIGH, SHOOTERSWAY LANE, BERKHAMSTED, HERTS, HP4 3NW
DEMOLITION OF OAKLEIGH AND CONSTRUCTION OF 2NO DWELLINGS

Your application for outline planning permission dated 18 August 1998 and received on 28 August 1998 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 23 October 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01523/98/OUT

Date of Decision: 23 October 1998

- 1. The proposal represents a gross overdevelopment of the site which would adversely affect the visual and general amenities of the area and would be contrary to the character of the area as defined in Development in Residential Areas - Character Area BCA 12 (Shootersway).**
- 2. The proposed development would have a seriously detrimental effect on the trees on the site which are covered by a Tree Preservation Order because of their high amenity value.**
- 3. The proposed replacement dwelling would be sited in such a position to cause a seriously detrimental impact on the trees situated close to the rear (east) boundary of the site which are covered by a Tree Preservation Order because of their high amenity value.**



The Planning Inspectorate

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PLANNING DEPARTMENT						
DACORUM BOROUGH COUNCIL						
DATE	ED	DP	D.C.	B.C.	S.S.	FILE
- 9 APR 1999						
2PD						

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

Your Ref:

Our Ref:

T/APP/A1910/A/98/1014806/P4

Date: 08 APR 1999

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6 APPEAL BY MR AND MRS SALMOND APPLICATION NO: 4/01523/98/OUT

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your clients' appeal against the decision of the Dacorum Borough Council to refuse outline planning permission for demolition of "Oakleigh" and the construction of two houses on land at "Oakleigh, Shootersway Lane, Berkhamsted. I conducted a hearing on 24 March 1999.
2. The appeal site comprises a large detached dwelling known as "Oakleigh" standing in extensive gardens at the end of a residential cul-de-sac. The existing house, together with a large detached double garage, would be demolished and be replaced by two detached dwellings. The appeal application was submitted in outline with all matters such as the siting and the size of the dwellings reserved for later determination. However, you submitted an illustrative plan showing a suggested layout for the two houses and an illustrative front elevation for the house on plot 1 and I have used these as guidance in determining this appeal.
3. The statutory development plan for the area consists of the Hertfordshire County Structure Plan Review 1991 - 2001, approved in 1998 and the Dacorum Borough Local Plan, which was adopted in 1995 [the LP]. There is also the Dacorum Borough Local Plan 1991 - 2011 but this is only an emerging plan which has not yet undergone a public inquiry and, in accordance with the guidance in PPG1 paragraph 48, I shall afford it little weight.
4. Of most relevance to a consideration of this appeal are Policies 1, 8 and 101 of the LP. Policy 1 directs development to the main towns including Berkhamsted; Policy 8 seeks a good quality of design for new development and Policy 101 seeks to resist development proposals the density of which would adversely affect amenity and the existing character of the surrounding area.

5. Also of relevance is some supplementary planning guidance - "*Development in Residential Areas*", which is now formally adopted as part of the LP. This defines and analyses the environmental character and appearance of residential areas - that for the area which includes the appeal site being identified as "BCA 12". Generally the area is described as being characterised by very low density, large houses in a spacious semi-rural setting: although infilling is acceptable in principle the aim is that new development should not exceed 8 dwellings/hectare.

6. There have been 3 previous appeal decisions concerning residential development on this site - all involving the erection of a single house in the gardens of "Oakleigh" while retaining the original dwelling house: all were dismissed [appeal references T/APP/A1910/A/87/079199/P5, A/95/260660/P4, A/97/281917/P2].

7. From the evidence before me and from what I saw on my site visit I consider that there are two main issues in this case. First, whether, bearing in mind the previous appeal decisions on this site, the appeal proposal would detract from the appearance and character of the area to an extent that would be unacceptable and contrary to policies in the statutory development plan. Second, whether any of the trees on or close to the appeal site and protected by Tree Preservation Order [TPO], would be put at risk by the proposed development.

8. One of the main concerns expressed by the inspectors in the previous appeal decisions has been about the visual impact of any new house on the space between "Oakleigh" and "Garden Cottage": that it would change the character of the area and appear to be cramped and "squeezed in". However with the existing dwelling demolished, a more spacious layout can be utilised, (the illustrative proposals showing a dwelling-on-Plot 1 with a slightly narrower frontage than in the previous proposal and a detached garage some distance from the house. This, to my mind, would not appear cramped at all and with due attention paid to the landscaping of the front garden and careful positioning of the single drive, the spacious character at the end of this cul-de-sac, together with the Leylandii hedge there, need not be unduly diminished.

9. I recognise that, in applying the development principles of the BCA12 area analysis, the Council is committed to resisting any cumulative reduction in standards - to preventing a generally higher density than that prevalent in the area and a dwelling size falling below that normally to be found locally. But the plot sizes contemplated in the current appeal proposal are not substantially lower than that of the properties to the north and south and probably comparable to those of "Briar Orchard", "Briars" and "Garden Cottage". While the plot density of the appeal proposal would be higher than that aimed for in BCA12 it would, according to the evidence, be comparable with surrounding properties which also appear to be significantly higher than the BCA12 figure. And, while the proposed houses, according to the illustrative plan, appear slightly smaller than their neighbours, they would not be so much smaller - or need to be, that they would be distinctly and unacceptably out of character with the adjoining houses and surroundings.

10. For all these reasons I have concluded in relation to the first issue, that the appeal proposal would not detract from the appearance and character of the area to an extent that would be unacceptable or contrary to statutory development plan policies.

11. Turning now to the second issue I noted that, according to the illustrative plan, neither of the two new houses would be materially nearer the two Oak trees in the garden protected by TPO than either "Oakleigh" or the existing detached garage. It seemed to be accepted for the Council that the continued existence of these trees would not be threatened by the construction and presence of the new houses themselves. However, it was submitted that the trees might, because of their need for moisture, make it difficult to cultivate a garden and that this might lead to pressure for their eventual removal. This seems a rather far fetched objection to me bearing in mind the fact that the existing garden is already laid down as lawn and that there are many ways of creating different forms of gardens which take into account the presence of trees. These trees are, moreover, on the northern side of the garden and therefore would not cause overshadowing of the appeal houses. Generally the same considerations apply, in my view, to the trees which are close to the site's eastern boundary but not in the garden itself.

12. The Council also raised a concern about the replacement for the Ash tree recently removed. It was suggested that it might be difficult to plant a replacement tree, which as part the Council's stipulation would be 3 - 3.5 m in height, in the position chosen because it would be too close to the house on plot 2. Quite apart from the fact that siting of the proposed houses is a reserved matter, the question as to whether the TPO permission or any permission granted in connection with this appeal should prevail, may be a matter for legal submission. However, on the basis of the evidence before me I consider that the appeal proposal must be my overriding concern in this respect.

13. In connection with the second issue therefore I conclude that the trees on the site protected by TPO and those close by would not be put at risk by the development proposed.

14. I have taken account of all the other matters raised but none of these has been of such weight as to override my conclusions on the main issues. Bearing in mind the distances likely to apply between the new houses and those of "Kaikoura House" and "Prestbury House" and indeed those that already prevail between "Oakleigh" and these houses, I do not consider that the privacy of these houses to the north would be reduced to any significant degree. With regard to traffic generation in the cul-de-sac, while I can understand the concern of those living nearby, particularly the occupants of "Wentworth", I cannot accept that the degree of traffic generated by one additional dwelling would be so great as to make the appeal proposal unacceptable in these terms.

15. For all these reasons I shall allow the appeal and grant planning permission subject to conditions. You indicated that the Council's suggested conditions were acceptable to your client and generally I find them appropriate. However, with regard to condition 3, these matters would be adequately covered by the requirements of condition 1. In addition, it is not stated what classes of development should be controlled by condition 9 and, bearing in mind the sensitive nature of the surroundings and the main issues of this appeal, I shall relate it to Schedule 2, Part 1, Classes A to F inclusive of the Order. Finally, with regard to condition 10, I consider that the requirement to use the garages for the parking of vehicles only would be difficult to enforce.

16. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant outline planning permission for demolition of "Oakleigh" and the

construction of two houses on land at "Oakleigh", Shootersway Lane, Berkhamsted in accordance with the terms of the application (No 4/01523/98/OUT) dated 18 August 1998 and the plans submitted therewith, subject to the following conditions:

1. approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called the "reserved matters") shall be obtained from the local planning authority in writing before any development is commenced and such development shall be carried out as approved;
2. application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission;
3. the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;
4. before the development hereby permitted is commenced details of hard and soft landscaping to the site shall be submitted to the Local Planning Authority for approval and the work shall be carried out in accordance with such approved details before the dwellings are first occupied or, in the case of planting, in the next planting season following completion of the dwellings;
5. before the development hereby permitted is commenced details of the protection during construction of all trees on the site and of the Leylandii hedge at the front of the site, shall be submitted to the Local Planning Authority for approval and such protection shall be carried out before construction works commence on site in accordance with such approved details;
6. no materials, plant or spoil shall be deposited or stored underneath the canopies of any of the trees on the site which are shown for retention on the approved landscape plans without the prior written consent of the Local Planning Authority;
7. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 [or any Order revoking or re-enacting that Order] [with or without modification], no windows, dormer windows, doors or other openings, other than those expressly authorised by this permission shall be constructed without the prior written consent of the Local Planning Authority;
8. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 [or any Order revoking or re-enacting that Order] [with or without modification], no extensions or other alterations permitted under Schedule 2, Part 1 Classes A - F inclusive of that Order shall be constructed without the prior written consent of the Local Planning Authority;

9. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 [or any Order revoking or re-enacting that Order] [with or without modification], the garages hereby permitted shall not be converted or adapted for living accommodation without the prior written consent of the Local Planning Authority

17. 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.

18. 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

EBW 

E B Williams DIPt ARICS MRTPI
Inspector

APPEARANCES

For the Apellants

Mr A King BA[Hons] BPI MRTPI Andrew King Associates

For the Council

Mrs J Ambrose BA[Hons] BTp MRTPI Planning Officer with the Council

Ruth Chapman BSc MA ESM Forestry Landscape Officer with the Council

Interested Persons

Mr C Byron Resident of "Wentworth", Shootersway Lane,
representing himself, Mr and Mrs Smith of
"Garden Cottage" and Mr and Mrs Ashford of
"Prestbury House"

Mr D Eggar Resident of "Kiakoura House", Shootersway Lane