



# Department of the Environment and Department of Transport

23156

Common Services

Room 1417 Tollgate House, Houlton Street Bristol BS2 9DJ

Telex 44932

 PLANNING DEPARTMENT  
 DACORUM DISTRICT COUNCIL  
 Direct line 0272-218 927  
 Switchboard 0272-218811

 112  
 CHIEF EXECUTIVE  
OFFICER

15 DEC 1987

File No.

Refer to

Closed

 Messrs Flatt & Mead  
 11 Marlowes  
 HEMEL HEMPSTEAD  
 Herts

Ret.				Ack.	
C.P.O.	D.P.	D.C.	B.C.	Admin.	Your reference
					File
				Our reference	
Received				Date	
16 DEC 1987				T/APP/A1910/A/87/73971/P2	
Comments					

0 DEC 87

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
 APPEAL BY MR AND MRS WATERHOUSE  
 APPLICATION NO: 4/1703/86

- As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the erection of a detached 4 bedroom house on land at Reson Way, Hemel Hempstead, Herts. I have considered the written representations made by you and by the council and also those made by an interested person. I inspected the site on 4 November 1987.
- From my inspection of the site and surroundings and the representations made I consider that the main issue is the impact the loss of the mature lime tree would make on the character of the surrounding area.
- The appeal site is a plot contained within a modern development around a cul-de-sac. Most of the front gardens are fairly small and would allow only the provision of small trees and shrubs. The lime tree on the site appears to be an excellent specimen in sound condition. Having survived the recent very high winds the assumption must be to this effect. The report by your tree consultant appears to mainly support this view. The tree is also dominant in the development and links in visually with other large trees at the rear of houses in Anchor Lane. All these trees, including the lime tree, are subject to protection by a Tree Preservation Order. Orders of this nature are not confirmed lightly and consequently the loss of a tree subject to an order has to be very seriously considered.
- It is clear that the appeal site would provide a suitable plot for the dwelling proposed and there is no doubt that a demand would exist for such a dwelling. Nevertheless, the lime tree existed at the time of the original development and it was preserved then for the contribution it made to the character of the area. Large trees within an urban area play a significant role in leavening the effect of the harder materials necessary for development. I am quite satisfied that the loss of this tree would be seriously detrimental to the visual character of the area and would not be compensated for by the erection of a dwelling, however well the remaining area of the site would be landscaped.
- I have noted the assertion that the plot is at present untidy and overgrown. At my inspection I did not consider this to be objectionable and with the increasing awareness for conservation and the protection of wildlife habitat it is becoming recognised that even small areas of undeveloped land can contribute considerably in an urban area in this way. Moreover, it would be possible to plant low maintenance ground cover shrubs on the site if desired, but in any case an unused untidy site is not a valid reason to be used for obtaining planning permission. It seems clear to

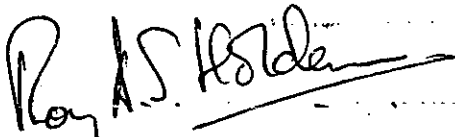
me that the existence of a Tree Preservation Order constitutes an interest of acknowledged importance. In all the circumstances therefore I find I am not persuaded that the removal of the lime tree is justified.

6. I have noted all the other matters raised in the representations, including the fact that the site is an infill site in a developed area, but neither this, nor all the other matters raised outweigh the considerations that have led to my decision.

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

I am Gentlemen

Your obedient Servant

A handwritten signature in dark ink, appearing to read 'Roy A S Holden', with a long horizontal flourish extending to the right.

ROY A S HOLDEN DipArch RIBA  
Inspector

Under the provisions of Section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case maybe, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

DD



## DACORUM BOROUGH COUNCIL

Mr & Mrs Waterhouse  
c/o Flatt & Mead  
To 11 Marlowes  
Hemel Hempstead

Mr S J Brooker  
Flatt & Mead  
11 Marlowes  
Hemel Hempstead

.... Detached dwelling (Outline) .....  
.....  
at .. Land at Reson Way, .....  
... Hemel Hempstead .....

Brief  
description  
and location  
of proposed  
development.

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated ..... 4. December 1986 ..... and received with sufficient particulars on ..... 4. December 1986 ..... and shown on the plan(s) accompanying such application..

The reasons for the Council's decision to refuse permission for the development are:—

The proposed development necessitates the removal of a mature lime tree of outstanding amenity value and subject to a Tree Preservation Order. It is considered that the loss of this tree would be detrimental to the appearance of the locality.

Dated ...Twenty-eighth..... day of ..... January ..... 19 87.....

Signed.....

SEE NOTES OVERLEAF

P/D.15

Chief Planning Officer

#### NOTE

1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
2. If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Borough Council in which the land is situated, a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in s.169 of the Town and Country Planning Act 1971.