



Planning Inspectorate
Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321

Direct Line 0272-218927
Switchboard 0272-218811

GTN 2074

Messrs Merriman White &
Solicitors
3 Kings Bench Wharf
Temple
LONDON EC4

Dacorum Borough Council	
20 OCT 1989	FOUR REFERENCE 1/APP/A1910/A/89/121749/P7
20 OCT 1989	DATE
Comments	

19 OCT 89

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY CHARLES CHURCH CHILTERN LTD
APPLICATION NO: 4/1734/88

1. As you know I have been appointed by the Secretary of State for the Environment to determine this appeal which is against the refusal of the Dacorum Borough Council to grant planning permission for residential development and associated access (14 detached houses). The site is Lansdowne House and land at the rear of Oddyfields, The Hundreds, Vendelbo, Danebury, Pembury, Broadmead and Sandon, Station Rd/Cow Lane, Tring, Herts. I opened an inquiry into the appeal on 28 September, 1989.

2. From the representations made and my inspection of the appeal site and its surroundings I am of the opinion that there are 3 main issues. These are, firstly whether the density of the development would be such as to seriously detract from the character of the area, secondly whether the privacy of adjoining residences would be unduly harmed and finally, whether a traffic hazard would be caused. There is no dispute regarding 5 year housing land availability and the additional presumption in favour of consent mentioned in circular 15/84 does not apply in this case.

3. As to the first issue, you refer to circular 15/84, Development Control Policy Note 2, Planning Policy Guidance (PPG) 9 and 12, and to various Structure Plan policies, particularly nos 49, 57, 71 and 72. These, supported by Local Plan policies 18, 63, 64 and 66 advocate that maximum use be made of urban land in Tring subject to design and environmental considerations. It is your case that these policies are up to date and the appeal project would be in keeping with the pleasant suburban character of the general area.

4. As the council point out, the normal presumption in favour of consent set out in circular 14/85 is not without qualification. Structure Plan policies 47, 48, 71(i) and 72, and Local Plan policies 18 and 66 stress the importance of safeguarding the form and fabric of settlements, including the retention of land in open use. According to paragraphs A15 and A17 of PPG 9, the aim must be to accommodate new housing in ways which enhance the environment and respect the interests of existing communities. Paragraph 28 of PPG 1 refers to aesthetic control. The council argue that the scheme of 14 dwellings would fail to meet the design requirements of this sensitive edge of the urban area adjoining the Metropolitan Green Belt and near the Chiltern Area of Outstanding Natural Beauty.

5. In my judgement this issue can only be decided on the basis of a visual assessment. It is undisputed by you and the council that the appeal development would have minimal impact on views from the AONB. This is a point made also by Mr Langton who addressed the inquiry and it was recognized by the Inspector who dismissed an appeal in August 1972.

6. The Key Diagram in the approved Structure Plan Review suggests that the boundaries of the Metropolitan Green Belt and Landscape Conservation Area in this location are co-terminus. As the appeal site is approached along the public footpath from the south the existence of new development would become evident. However, it was agreed at the inquiry that the screening to the right formed by the existing trees and hedge could be largely safeguarded by a Tree Preservation Order and the landscaping conditions I am imposing. The hedge and trees which bound the footpath to the left provide an additional line of screening to the west. Ms Smith who spoke at the inquiry tells us that the nearest Green Belt fields belong to the County Council, in which case the existing boundary hedge and trees on the south side of the fence are unlikely to be removed.

7. The appeal site itself is not in a protected area and the council accept the principle of residential development. A landscape scheme would meet the requirements of Local Plan policy 22. The footpath must inevitably meet the built up area at some point and I can see no overriding reason why this should not be at the Green Belt boundary. In my opinion the density of the scheme is sufficiently low that the openness of the Green Belt would not be adversely affected.

8. My inspection revealed that the development would hardly be noticed from Station Rd. The access from Cow Lane would provide a view into the estate. But in my judgement the demolition of Landsdowne, which now occupies almost the entire width of its site, and its replacement by a new opening would not seriously detract from the character of Cow Lane. Indeed, the breaking up the built-up frontage could be regarded as beneficial.

9. From the existing houses immediately adjoining the appeal site residents would see the development. However, a householder cannot reasonably be protected from a change in what he sees from his windows. No one enjoys a right in perpetuity to a view over the private property of others. I deal with the the question of privacy next.

10. As to the second issue, you refer to paragraph 14 of Annex A to circular 15/84 which states that functional requirements within a development are for the most part a matter for developers and their customers. With back to back distances between new and existing houses of 55m or more there would be no undue loss of privacy. While there is potential for some overlooking of existing rear gardens, it is argued on behalf of your clients that this problem could be overcome by screen planting for which there is room within both the appeal development and adjoining residential gardens. The layout of the proposed access road has been agreed with the council. The 1m gap between plots 6/7 and the property boundary with Dale House would, in your view, represent a fairly common relationship.

11. In defence of their opposition to the development, the council assert that the gardens of the new houses would be too small. The council's contention that existing adjoining properties would suffer a serious loss of back garden privacy is strongly supported by Councillor Jameson, Mr Hurley and Mr Turner who addressed the inquiry.

12. The proposed plot sizes would clearly be smaller than those which exist nearby. However, as Annex A of circular 15/84 implies, possible overlooking between one new property and another would be a matter to be borne in mind by prospective purchasers. I do not regard the sizes of private gardens within the development itself as a weighty consideration in this case. The comparatively generous back to back distances between new and existing houses could not give rise to serious objection.

13. Dale House has a thick mature hedge along the boundary with plots 6 and 7 and there is a line of tall conifers separating that end of the garden from the rest. Oddyfields is fairly well screened along its boundary with Landsdowne. My site inspection showed that the ends of the long existing gardens of properties abutting the appeal site boundary invariably incorporate hedges or trees. They tend to be the areas devoted to the growing of produce for the kitchen and are generally screened. The gardens are undoubtedly large enough to accomodate additional planting if wanted.

14. It seems likely to me that even in the smaller gardens of the proposed houses, new owners would seek to protect their own privacy by screen planting. This would be reinforced by the landscaping conditions I am imposing. With the exception of one property I consider that the proposals would not extend beyond the threshold of normal good neighbourly development.

15. That exception is Coppers. To protect their back garden privacy near the house it is essential that fairly dense planting be provided. The access road in the proposed layout plan swings close to the boundary with Coppers where little screening exists at present and I am not convinced that the area left for planting between the road and boundary would be adequate. I am therefore imposing a condition requiring the alignment of the access road and the landscaping scheme to be considered together. To my mind there is no convincing evidence showing that the use of the access road would cause such noise and disturbance to the residents of Coppers or Oddyfields that planning permission should be refused.

16. As to the third issue, Mr Hurley cites a report prepared by Mr J F Mitchell, Head of Traffic and Environment, South East Region of the Automobile Association which indicates that excessive traffic would be generated by the appeal development. Mr Hurley says that numerous minor traffic accidents have occurred at the Cow Lane/Station Rd/Grove Rd junction and the existing hazards would be badly aggravated if permission were granted.

17. The response on behalf of your clients is that the AA report was known to the County Highway Authority who raise no objection to the proposals. The opinion of Mr Wilson, the engineer for Charles Church Developments, is that relatively little peak hour traffic would be generated by the appeal development. He goes on to explain that not one of the 4 recorded accidents which occurred at the junction between January 1986 and April 1989 was caused by deficiencies in the junction design.

18. While I do not doubt the sincerity of Mr Hurley in raising the traffic objection, I prefer the evidence of Mr Wilson to the written submission by the AA. Mr Wilson's known professional qualifications and experience, his attendance in person at the inquiry and his direct involvement in discussions with the County Highway Authority make his assessment more reliable than that of Mr Mithell.

19. I conclude from the above that the appeal development need not seriously detract from the character of the area, harm the privacy of adjoining residences or cause a traffic hazard. However, in addition to the standard time limit condition it would be necessary for various other conditions to be imposed along the lines of those discussed at the inquiry.

20. I have referred above to the landscaping conditions and the realignment of the access road in relation to Coppers. To safeguard the character of the area, external materials for the buildings, roads and footways should be approved before any works commence. The public footpath through the site should also be surfaced and landscaped so as to be integrated into the over-all scheme. To prevent undue overlooking into existing gardens, I am imposing a condition removing certain permitted development rights. In the interests of highway safety the access road must have adequate visibility splays and on-site arrangements for vehicle parking, circulation and turning should be made. If the road is to adopted later by the Highway Authority it would have to be built to the council's standards.

21. All the other matters raised have been taken into account, including the residential market in this area. The only previous appeal decision which might be thought to have a bearing is the dismissal in 1972 concerning 13 dwellings. But at that time the site was being treated as if in the Green Belt and an Area of Great Landscape Value where different policies applied. Furthermore, I regard the latest layout as acceptable. Appeal decisions on other sites referred to by the council involved proposals significantly different to the scheme now under consideration and are not directly relevant.

22. Some objectors are worried that this approval would place an intolerable burden on existing community services such as schools and parking. But Tring is listed in policy 49 of the County Structure Plan, reiterated in policy 63 of the Local Plan, as a settlement in which development is to be concentrated. I cannot see how 14 additional dwellings in a town with a population of roughly 11,500 could have any significant impact on local facilities. On the question of precedent which is mentioned by many people in their written representations, I regard the Green Belt as a substantial barrier to most forms of further development in the direction of the A41. I stress that my decision in this case derives from my assessment of the planning and other relevant circumstances as they are at this time and as they relate to this particular site.

23. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client company's appeal. Planning permission is granted for residential development and associated access (14 detached houses) at Lansdowne House and land at the rear of Oddyfields, The Hundreds, Vendelbo, Danebury, Pembury, Broadmead and Sandon, Station Rd/Cow Lane, Tring, Herts. in accordance with the terms of application (No 4/1734/88) dated 8 September 1988 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 letter.

2. No work shall start on the development hereby permitted until such details of materials to be used externally shall have been submitted to and approved in writing by the local planning authority and the development shall be carried out only in the materials so approved.

3. No development shall take place until there has been submitted to and approved by the local planning authority a landscape scheme 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.
4. All planting, seeding or turfing comprised in the approved landscape details 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 gives written consent to any variation.
5. Except where indicated in the landscape scheme to be approved no hedge shall be removed without the prior written consent of the local planning authority.
6. The estate road from Cow lane shown on Plan A/2 (reference no 800:37-01-C) shall be realigned within the property known as Landsdowne so as to accord with the requirements of the approved landscape scheme in providing adequate room for additional screen planting along the boundary with Coppers.
7. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme for surfacing and landscaping the public footpath between Station Rd and the southern boundary of the application site. Such footpath works shall be carried out in the first planting and seeding seasons following the initial occupation of the dwellings or the completion of the development, whichever is the sooner.
8. The roads and footways and the footpath referred to in condition no 7 hereof shall be constructed in accordance with the specification of the Hertfordshire County Council set out in "Residential Roads in Hertfordshire" unless the local planning authority give written consent to any variation thereto and full details, including details of the finished surfaces, of the roads, footways, footpath, amenity areas and lighting facilities shall be submitted to and approved by the local planning authority before any work is commenced on site.
9. The development hereby approved shall not be occupied until visibility splays at the junction of the approved estate road and Cow Lane shown on Plan A/2 (reference no 800:37-01-C) shall have been provided within which there shall be no obstruction more than 600mm above carriageway level.
10. The details submitted in accordance with condition no 8 hereof shall include the provision of a forward visibility splay upon the inside of the bend in the estate road. The details shall include the realignment of the footway on the inside of the outer edge of the said splay and no obstruction more than 600mm above carriageway level shall be placed or erected within such splay.
11. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

12. No dwelling shall be occupied until space has been laid out within its site as shown on Plan A/2 (reference no 800:37-01-C) for parking, loading and unloading and for vehicles to turn so that they may enter and leave the estate road in forward gear.

13. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 as amended (or any order revoking and re-enacting that Order), no windows or other opening within Classes A, B and/or C of Part 1 of Schedule 2 of Article 3 of the said Orders shall be formed without express written permission of the local planning authority:

(a) in the wall of the first floor and roof of the north elevation of the dwelling on plot 1;

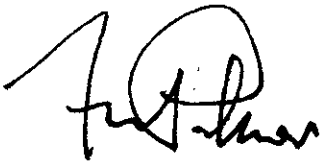
(b) in the wall of the first floor and roof of the west elevation of the dwellings on plots 6 and 7;

(c) in the wall of the first floor and roof of the east elevation of the dwelling on plot 14.

24. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has the 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.

25. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Sir
Your obedient Servant

A handwritten signature in black ink, appearing to read 'F E Palmer', with a large, stylized initial 'F'.

F E PALMER JP BArch DipCD RIBA FRSA FBIM FRTPI
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To Charles Church Chiltern Ltd
Charles Church House
Baring Road
Beaconsfield
Bucks HP9 2NB

.... Erection of 14 dwellings, garages, estate road etc

.... Landsdowne House and land r/o Sandon, Broadmead,

at .. Pembury, Danebury and Vendelbo, Station Road and
r/o The Hundreds and Oddy Fields, Cow Lane, Tring

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 8.9.88 and received with sufficient particulars on 14.9.88(amended 13.10.88, 24.11.88 & 27.1.89) .. and shown on the plan(s) accompanying such application.

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

1. By reason of the number, size and spacing of the proposed dwellings, the proposed development is, in the opinion of the local planning authority, out of character with its surroundings and would have an adverse effect upon the open character and appearance of this locality on the edge of the urban area.
2. By reason of the close proximity of proposed dwellings to boundaries of adjoining dwellings, the lack of opportunities for increased screen planting on those boundaries the proposed development will have an adverse impact upon the amenities of the occupants of adjoining dwellings and the overall character of development in the locality.

Dated ... 23 ... day of ... February ... 19 89

Signed

Chief Planning Officer

SEE NOTES OVERLEAF

P/D.15

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.