



The Planning Inspectorate

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Your Ref: DSF

Our Ref: T/APP/A1910/A/99/1026109/P8

Date: 13 OCT 1999

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MRS PAMELA KIRKHAM
APPLICATION NO: 4/02009/98/ROC**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your client's appeal against the decision of Dacorum Borough Council to refuse to remove a condition subject to which planning permission (reference 4/1383/92) was granted for demolishing and part rebuilding a side extension to an outbuilding for residential accommodation ancillary to 20/22 Trooper Road, and a detached garage, on land at the rear of 20/22 Trooper Road, Aldbury. I have considered all the written representations together with all other material submitted to me. I inspected the site on 30 September 1999.

2. The condition in dispute is No. 7 which states: "the development hereby permitted shall not be used otherwise than for purposes incidental to the enjoyment of 20/22 Trooper Road, Aldbury, as a dwellinghouse". The reason for the condition is stated as being "to safeguard the residential amenity of the area".

3. From the representations made and from my inspection of the site and its surroundings I consider that the main issue is whether condition 7 is necessary and reasonable in the interests of safeguarding the living conditions of occupiers 20/22 Trooper Road.

4. 20/22 Trooper Road is a listed building which is situated within the Aldbury Conservation Area and within an Area of outstanding Natural Beauty. I shall deal briefly with these aspects of the case before turning to the main issue which I have identified. In this context you have pointed out that the proposal does not involve the construction of any new buildings, the only physical change being a brick wall a maximum of 0.9 metres in height. In my opinion the proposed wall would be such a minor element that in terms of the physical environment of the site and its surroundings the proposal does not imply a material change of character or appearance. Accordingly, I have concluded that in this respect the proposal would not harm the character or appearance of the conservation area, the listed building's setting or the appearance of the Area of Outstanding Natural Beauty, so that these aspects would remain preserved. Thus, in this regard the proposal in my opinion accords with the aims of the development plan to protect the Area of Outstanding Natural Beauty, to preserve or enhance the historic character of conservation areas and to protect the settings of listed buildings.

5. I now return to the main issue. With respect to relevant provisions of the development plan, policy 8 of the adopted Dacorum Borough Local Plan 1995 deals with quality of development and requires, among other things, that proposed development should not lead to adjoining properties being harmed because of a loss of privacy. The environmental guidelines of the local plan stipulate that there should be sufficient space around residential buildings to avoid a cramped layout, to maintain residential character, and to ensure privacy, and to this end specify a minimum distance of 23 metres between the main rear wall of a dwelling and the main front wall of another.

6. The outbuilding at the rear of 20/22 Trooper Road was, according to the representations, previously a studio and originally a barn and is currently occupied as ancillary residential accommodation to the main house. There is a small area of garden between the two buildings, with further garden space at the rear of the outbuilding. You have explained that both the house and the outbuilding have sufficient off-street parking space for two cars, which is the council's requirement for individual dwellings. I have noted that no first floor windows of the outbuilding face the rear of 20/22, although a ground floor living room window and a staircase window face the house, which in turn has a bedroom window and french windows of a living room facing the outbuilding.

7. At the present time condition 7 ensures a situation whereby the house and the outbuilding form a single property, so that the confined space between the buildings is part of the property's garden as a whole. However, it is clear to me that if the condition were to be removed, it would allow the outbuilding to become a separate property, with the space between the buildings being split into two separate areas of garden by the erection of the proposed wall. This arrangement would, I consider, result in the existing house having most of its greatly reduced garden space overlooked by the front and rear windows of the adjoining, separate dwelling. Furthermore, since a distance of only about nine metres separates the rear wall of 20/22 from the front wall of the outbuilding, I take the view that the living room and staircase windows of the outbuilding are so close to the french windows of the house that this would result in occupiers of the separate dwelling overlooking occupiers of the existing house.

8. I therefore take the view that occupiers of 20/22 would suffer a very serious loss of privacy and amenity if condition 7 were to be removed and the outbuilding occupied as a separate dwelling. Thus, the outcome of your client's proposal would be clearly contrary to the relevant provisions of the development plan. I have consequently concluded that condition 7 is necessary and reasonable in the interests of safeguarding the living conditions of occupiers of 20/22. I also consider that it meets the other tests for the validity of a planning condition set down in Circular 1/95, that is, it is relevant to planning and the development permitted, capable of being enforced and precise.

9. I have also taken account of all other matters raised but I do not find these to be of such weight as to override the considerations which have led to my conclusion.

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

Yours faithfully

TERENCE POVEY

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Inspector



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MRS P KIRKHAM
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/02009/98/ROC

ADJ 20-22, TROOPER ROAD, ALDBURY, TRING, HERTS, HP23
REMOVAL OF CONDITION 7 PURSUANT TO PLANNING PERMISSION 4/1383/92
TO ENABLE USE AS INDEPENDENT DWELLING HOUSE, AND ERECTION OF
BOUNDARY WALL

Your application for removal of a condition on a previous permission dated 24
November 1998 and received on 25 November 1998 has been **REFUSED**, for the
reasons set out overleaf.

Director of Planning

Date of Decision: 16 February 1999

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/02009/98/ROC

Date of Decision: 16 February 1999

- 1. The proposal represents a gross overdevelopment of the site which would affect adversely both visual and general amenities and would detract from the character of the area.**
- 2. The proposed development would have a seriously detrimental effect on the amenities and privacy at present enjoyed by the occupants of adjacent dwellings.**