

APPEAL REPRESENTATION / OBJECTION

Town and Country Planning Act 1990

Appeal by: Dandara Southern Ltd & Elstree Land Ltd

Site: Land North of Reading Road, Arborfield

Local Planning Authority: Wokingham Borough Council

Planning Inspectorate Reference: APP/X0360/W/25/3371069

1. Introduction and Interest in the Appeal:

I write to object to the appeal proposals in the strongest possible terms. I am the freehold owner and occupier of Lavender Cottage, Church Lane, which lies immediately adjacent to the appeal site. The appeal proposals rely upon private land and drainage infrastructure that I own and control, and now also assume the ability to carry out physical works to a ditch located on my land.

I have not given consent for any use of my land or infrastructure. I have not entered into any agreement with the appellant. No agreement, easement, licence, or right of access exists or will be forthcoming.

This objection is submitted having reviewed the appeal documentation, including the appellant's Surface Water Hydraulic Modelling Report / Flood Risk Assessment (December 2024), together with my own title documents confirming ownership of the relevant drainage features.

2. Summary of Objection:

The appeal proposals are fundamentally flawed and should be dismissed because:

1. The drainage strategy is not deliverable, relying on third-party land and infrastructure outside the appellant's control.
2. The appellant has no legal right to discharge surface water into my land, pond, drainage pipe, or ditch.
3. The Flood Risk Assessment confirms that flooding already occurs in the ditch and drainage system relied upon.
4. The ditch and pond on my land are already at or beyond capacity, with regular flooding and overtopping.
5. The Flood Risk Assessment fails to model the downstream drainage infrastructure it relies upon.
6. The appellant acknowledges off-site flood level increases, contrary to national planning policy.

7. The appeal now assumes works to a ditch on my land, which cannot lawfully be delivered.
8. The appeal documents contain inaccurate and misleading descriptions of drainage features and ownership.
9. The proposal includes a pedestrian access onto my land, which is neither consented to nor deliverable.
10. These are matters of principle and viability, not detail, and cannot be resolved by condition.

3. Ownership of the Ditch and Pond (Evidenced and Unequivocal):

Evidence is submitted with this representation confirming my ownership of the drainage features relied upon by the appeal proposals.

The HM Land Registry Site Plan (Title Number [REDACTED]) clearly shows the land edged in red, which includes Lavender Cottage, the pond at the front of the property, and the drain along the boundary.

In addition, the Lavender Cottage title deeds and historic conveyance documents expressly acknowledge that:

- “the ditch or stream separating your property from ours” and
- “the pond into which it flows”

are included within my property and form part of my registered freehold title.

These documents confirm that:

- the ditch and pond are private features within my ownership;
- responsibility for their maintenance rests with the landowner;
- there is no easement, covenant, or other legal right permitting third parties to discharge surface water into them or to carry out works to them.

This evidence removes any ambiguity. The ditch and pond are not part of the appeal site, are not in public control, and are not available for use by the proposed development.

4. Lack of Land Control and Absence of Consent (Fundamental Planning Failure):

The appeal proposals rely upon:

- a private underground surface water drainage pipe running the length of my property;

- a private pond at the front of my property;
- a ditch along the rear of my land, which the appellant now proposes to modify;
- onward conveyance beyond my land via third-party and highway land.

I confirm unequivocally that:

- I do not consent to any discharge into my drainage pipe or pond;
- I do not consent to any alteration, improvement, or maintenance of the ditch;
- I have entered into no agreement (easement, licence, deed or otherwise);
- no agreement will be forthcoming.

Despite this, the appeal documentation repeatedly assumes that surface water can be discharged into an “existing ditch” and conveyed onward via “existing drains”, without identifying ownership, control, or consent. This is not a private legal dispute; it goes directly to whether the development can lawfully and physically be implemented.

It is a well-established planning principle that permission should not be granted where a proposal depends on land outside the applicant’s control and there is no reasonable prospect that the necessary rights can be secured. In this case, the landowner (myself) has made clear that consent is refused.

5. Existing Flooding and Constrained Downstream Capacity:

The appellant’s own Flood Risk Assessment confirms flooding and ponding in the drainage system relied upon.

The report identifies that:

- surface water ponds along the ditch on the western side of the site and spills toward Church Lane;
- the greatest flood depths occur along the ditch, within a topographic depression;
- depths exceeding 500mm are predicted along the existing drains during the 1% AEP plus climate change event.

This aligns with real-world conditions on my land:

- the ditch along the rear of my property already floods;
- the pond at the front of my property frequently overtops;
- the existing drainage infrastructure is already under significant hydraulic stress.

The proposal seeks to route surface water from 111 dwellings toward a system that is already failing under existing conditions, which would inevitably worsen flooding on my land and downstream.

6. Fundamental Flaws in the Flood Risk Assessment Methodology:

A critical admission appears in the Flood Risk Assessment:

“The hydraulic model does not include the onsite rainfall and therefore does not take into account the drainage network either.”

As a result:

- my private drainage pipe is not modelled;
- my pond is not modelled;
- downstream exceedance behaviour is not assessed;
- the capacity of the receiving system is assumed, not tested.

The Flood Risk Assessment therefore cannot demonstrate that surface water can be safely conveyed off-site or that flood risk to third-party land will not increase. Its conclusions are necessarily unreliable.

7. Acknowledged Increases in Off-Site Flood Risk:

Despite asserting no adverse impact, the Flood Risk Assessment concedes off-site flood level increases, including south of Reading Road and at the site entrance. In the context of existing flooding and lack of land control, these increases are material and unacceptable.

8. Assumed Works to a Ditch on My Land:

The appeal proposals now assume that the ditch on my land can be altered or relied upon as part of the drainage strategy.

I do not consent to:

- deepening, widening, regrading or lining of the ditch;
- construction access or future maintenance on my land.

No legal right exists, and no lawful land drainage consent pathway has been demonstrated. The drainage strategy therefore depends on hypothetical future works that cannot be secured.

9. Inaccurate and Misleading Information in Appeal Documents:

The appeal documentation has:

- misdescribed my private underground drainage pipe as an open ditch;
- referred inconsistently to a “retained watercourse” as though it were available for use;
- failed to clearly identify land ownership or control.

These inaccuracies materially affect the assessment of deliverability and undermine confidence in the appellant’s evidence.

10. Proposed Pedestrian Access onto Private Land:

The appeal proposals include a pedestrian connection onto my land, which in practice would lead directly into my private pond area.

I do not consent to any pedestrian access, right of way, or connection across my land. No legal mechanism exists to deliver this element of the scheme.

11. Conflict with National Planning Policy and Guidance:

Taken together, the appeal proposals fail to demonstrate that the development would:

- be safe for its lifetime;
- not increase flood risk elsewhere;
- incorporate deliverable and effective drainage infrastructure.

The appellant has failed to discharge the burden of proof required for major development.

12. Why These Issues Cannot be Resolved by Condition:

A planning condition cannot:

- create land ownership rights;
- compel a third party to accept floodwater;
- remedy a drainage strategy that is fundamentally undeliverable.

These deficiencies go to the principle of development, not matters of detail.

13. Conclusion:

The appeal proposals rely on private land and infrastructure without consent, assume works that cannot lawfully be delivered, and would exacerbate flooding in an area already subject to regular inundation. The appellant's own Flood Risk Assessment confirms these risks while failing to assess downstream reality. Documentary title evidence confirms unequivocally that the ditch and pond relied upon are privately owned and unavailable.

For these reasons, the appeal should be dismissed.

Yours faithfully,

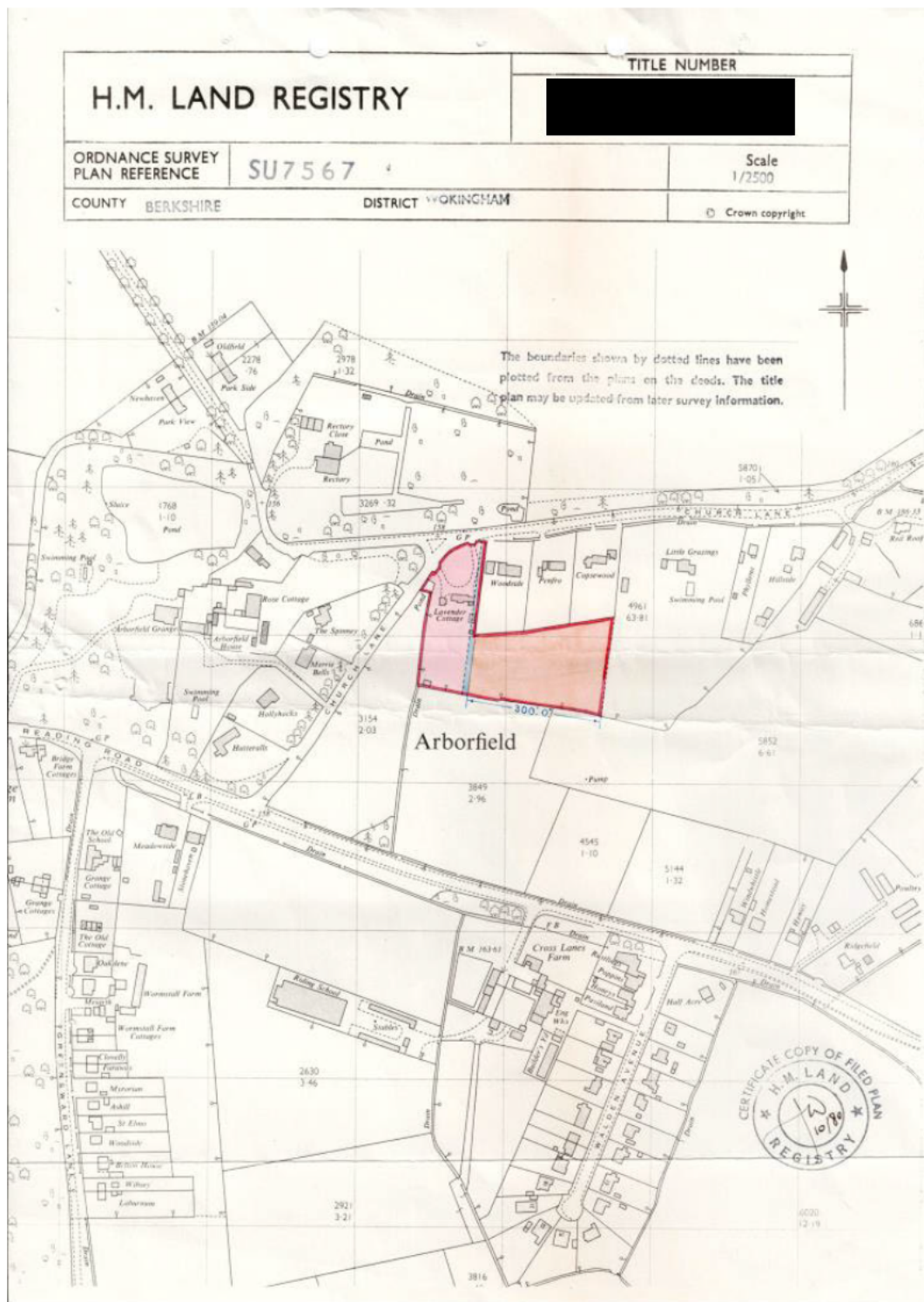
Mrs Iris Dicker

Lavender Cottgae,
Church Lane,
Arborfield,
Berkshire,
RG2 9JA

Appendices:

- Appendix A: HM Land Registry Site Plan – [REDACTED]
- Appendix B: Lavender Cottage Title Deeds / Conveyance Documents
- Appendix C: Location Plan of Lavender Cottage

Appendix A:



Appendix B:

		LM (Revised)
Property	re Lavender Cottage Church Lane Arborfield	ENQUIRIES BEFORE CONTRACT In cases of property subject to a tenancy, forms Con 291 (general business and residential tenancies) or Con 292 (agricultural tenancies) should also be used. Please strike out enquiries which are not applicable
Parties	South	
	to Doxford	
These enquiries are copyright and may not be reproduced		
Replies are requested to the following enquiries.		The replies are as follows
Proposed purchaser's solicitor.		Proposed vendor's solicitor.
Date	22-6-1982	Date 22nd June 1982.
GENERAL ENQUIRIES		REPLIES
1. Boundaries (A) To whom do all the boundary walls, fences, hedges and ditches belong? (B) If no definite indications exist, which has the Vendor maintained or regarded as his responsibility?		1. Deeds are unclear but the vendors state they believe that the ditch on the right hand side is theirs as is the fence on the far side of the ditch and also the back boundary. No contributions have been called for during the vendors' ownership.
2. Disputes Is the Vendor aware of any past or current disputes regarding boundaries, easements, covenants or other matters relating to the property or its use?		2. The vendor states that so far as he is aware there have been none. However, we understand that the next door neighbour, Mr. Rowe has written to our client's Agents as to the possibility of taking down some trees and we have requested a copy of this letter.
3. Notices Please give particulars of all notices relating to the property, or to matters likely to affect its use or enjoyment, that the Vendor (or to his knowledge, any predecessor in title) has given or received.		3. None has been served or received during the vendor's ownership.
4. Guarantees etc. (A) Please supply copies of any of the following relating to the property of which the Purchaser is to have the benefit: (i) National House-Building Council agreement and certificate, or insurance policy with notice of insurance cover; (ii) insurance policy, indemnity or guarantee, relating to a defective title, or breach of any restrictive covenant; (iii) agreement, certificate, guarantee, warranty or insurance policy relating to any repair or replacement of, or treatment or improvement to, the fabric of the property; (iv) agreement or covenant for the maintenance by some other person of any road or footpath over which rights of access to the property are enjoyed; (v) agreement, indemnity, guarantee or bond for payment of the cost of constructing the road to which the property fronts, or sewers under it, and of road charges on its adoption as maintainable at the public expense. (B) (i) What defects or other matters have become apparent, or adverse claims have been made by third parties, which might give rise to a claim under any document mentioned in (A)? (ii) Has notice of such defect, matter or adverse claim been given? If so, please give particulars. (iii) Please give particulars of all such claims already made, whether or not already settled.		4.(A) The vendors state that the property may have the benefit of a Rentokil Guarantee and we are enquiring. If so, the same will be sent to us. (B) None to the vendors' knowledge but the purchaser must rely on his own inspection and survey.

E. J. WINTER & SON

FOUNDED IN 1927

21-23 QUEEN VICTORIA STREET
READING RG1 1TE



(GW)RF

Solicitors

Commissioners for Oaths

RICHARD FROST LL.B.
MARTIN J. CHANDLER LL.B.
KULDEEP SETHI LL.B.

GEOFFREY F. WINTER - CONSULTANT
(Non-Practising)
BRIAN SHIELDHOUSE LL.B. - CONSULTANT

9th July, 1998

Dear Mrs. Dicker,

Further to my visit to Arborfield on Monday, I enclose a copy of the letter which [REDACTED] are prepared to sign with a view to clarifying the situation regarding the mutual boundary of your property and theirs. I shall be glad to know that it meets with your approval and that of Mr. Dicker. (I assume he is co-owner of your property).

If it does, because time is short, and I shall not be in this office again until next week, I shall be grateful if you will let [REDACTED] know by telephone on [REDACTED] so that the letter can be signed and the work can proceed.

In consideration of the acknowledgment made by our Clients, I shall be glad if you will for your part confirm that you will henceforth clean the ditch or stream and the pond, and will maintain the new fence in good and substantial repair and condition.

I gather that some apprehension has been expressed that the horses kept on our land might chew the fence. I imagine it is possible to treat it with a safe repellant, but of course we must look to you to take proper steps in that regard, and to indemnify [REDACTED] against any claims arising therefrom.

Finally, I appear to have brought away with me the Conveyance of 26th June 1980 : clearly this is your document, and I enclose it herewith

Yours faithfully,

(G.F. Winter)

for E. J. WINTER & SON

Mrs. I. Dicker,
Arborfield,
Berks.

This firm is regulated by The Law Society
in the conduct of investment business

To : THOMAS DICKER and IRIS DICKER,
of Lavender Cottage, Church Lane, Arborfield, Berks

WE, [REDACTED]

[REDACTED] as Beneficial Owners of the piece of land at
Arborfield, Berks, bounded on the South or South-west by Reading
Road, on the West or North-west by Church Lane, and on the East
by your property known as "Lavender Cottage", HEREBY ACKNOWLEDGE
(a) that the ditch or stream separating your property from ours
and the Pond into which it flows are included in your property
registered at H. M. Land Registry with Absolute Title under
Title Number [REDACTED]
(b) that you may enter our property for the purpose of
erecting or causing to be erected, and thenceforth maintaining,
a close-boarded wooden fence not exceeding Six feet six inches
in height along the common boundary between our said respective
properties in the position at present indicated by the barbed-
wire fence attached to the lime trees standing on the West or
North-west of the ditch or stream, and that the outside face of
such wooden fence shall then be understood to be the definitive
boundary between our respective properties
(c) that you will be entitled to access to the said fence over
our property for maintenance purposes from time to time upon
giving to us or the tenants or licensees for the time being of
our property reasonable notice

DATED this day of 1998

Appendix C:

