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12/1/92

TEAMS 58/92



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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RECEIVED						
17 JUN 1992						

Your Reference:
AJP/WG/1807
Council Reference:
4/0149/92EN
Our Reference:
T/APP/C/92/A1910/617554/P6

Date
16 JUN 92

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY CANONside LIMITED
LAND ADJACENT TO THE BREWHOUSE, THE BIT, WIGGINTON, HERTS

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal. This appeal is against an enforcement notice issued by the Dacorum Borough Council concerning the above-mentioned land. I have considered the written representations made by you, by the Council, by Wigginton Parish Council and by interested persons. I inspected the site on 1 June 1992.
2.
 - a. The date of the notice is 16 January 1992.
 - b. The breach of planning control alleged in the notice is failure to comply with condition No. 5 subject to which planning permission (No. 4/0947/89) was granted on 18 December 1990 for house and garage (reserved matters).
 - c. The condition in question is:

The integral garage shall not be used primarily for any purpose other than the parking of vehicles incidental to the enjoyment of the dwellinghouse.
 - d. The notice alleges that this condition has not been complied with in that the space allocated for the integral garage on the approved plans has been utilised for the construction of a domestic room.
 - e. The requirements of the notice are to convert the domestic room into an integral garage by :

- (a) removing the fireplace and chimney;
- (b) removing the patio window;
- (c) providing a garage with a finished floor level at or adjoining that of the level of the driveway, and adjusting the height of the driveway to enable a vehicle to enter the garage; and
- (d) fitting a garage door as shown on the approved plans.

f. The period for compliance with these requirements is three months.

3. Your client's appeal was made on ground (g) as set out at S.17⁴(2) of the 1990 Act prior to its amendment by the Planning and Compensation Act 1991. As the appeal was made subsequent to the commencement of S.6(1) of the 1991 Act it is proceeding on the equivalent ground of S.17⁴(2) as now amended. This is:

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

4. In addition, it is clear from your representations that it is a major part of your client's case that there is sufficient parking space in front of the house, excluding the integral garage, to meet the Council's parking standards and that, accordingly, the requirement that the integral garage should only be used for the parking of vehicles is excessive and unnecessary. Those are arguments as to planning merit, of course, and accordingly I shall also consider the case on the basis that an appeal had been lodged on ground (a) as well as on ground (f). Ground (a) is to the effect that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

The appeal on ground (a)

5. I consider that there are three main issues here. They concern: first, the effects of the retention of the development, without compliance with condition 5, on the appearance of the street scene; second, the effects on highway safety and residential amenity; and third, whether there are other circumstances which outweigh any objections arising under the first two issues.

6. The Bit is a narrow lane within the built up area of the attractive village of Wigginton. There is a row of semi-detached dwellings and the appeal dwelling on its north side and the rear parts of a number of residential properties and a coach parking area on the south side. There are tall hedges at the east end of the road, extending to include parts of the frontage of the appeal site. The semi-detached houses are of traditional design and many have trees and shrubs as well as areas of lawn in their front gardens. Notwithstanding the presence of the coach parking area, and what appears to be the recent removal of lengths of hedge to the west of the appeal site, I consider that The Bit has a generally attractive, well landscaped, appearance, which contributes to the village atmosphere of Wigginton.

7. I noted at my inspection that the front garden area of the appeal site is very largely covered by gravel hardstanding, with only very narrow planted borders on parts of the side boundaries and adjoining the house and with two lengths of tall hedge on either side of the wide entrance gates. In my

opinion its appearance is very substantially out of character with the general appearance of the rest of The Bit. By comparison with the general character of the rest of the lane it has a more cramped appearance and is less well endowed with vegetation.

8. The Council's car parking standards require that three off-street parking spaces be provided for a dwelling of the size of the appeal dwelling. Your contention is that three, and indeed more, cars could be parked at the front of the house and that the garage is not needed as well.

9. At the time of my inspection the site of the integral garage was equipped and in use as a sitting room. Having inspected the front garden area of the site very carefully I am of the opinion that, as things stand now, with the site of the integral garage not available for parking use, it would be very difficult indeed for three cars to be parked off street on the land, on a practical day to day basis. It may be that three or even four vehicles could be stationed on the land, if they were carefully positioned and placed very close to each other. But I consider that if the land were to be regularly used for the parking of three vehicles the drivers would find the parking operations involved very time consuming, frustrating and difficult. I take the view, on the balance of probability, that, over the course of time, such use would lead to damage being done to the attractive frontage hedge and to the other small areas of landscaping, and that they would eventually disappear, whatever the good intentions of present or future occupiers with regard to the provision of landscaping. I conclude, on the first issue, that setting aside condition 5 would be seriously damaging to the appearance of the front garden area of the appeal site and that this in turn would be very harmful to the generally attractive street scene in The Bit.

10. I am also firmly of the view that, as the present off-street parking space availability at the appeal site does not meet the Council's standards, parking generated by the appeal dwelling will take place on the lane, in the future if not at the present time. I conclude, in relation to the second issue, that such on-street parking, within the narrow confines of the lane, will cause inconvenience to nearby residents, harmful to their residential amenities. Bearing in mind the narrowness of the lane, and its use by coaches as well as domestic vehicles, and the proximity of the site to Chesham Road, I take the view that such on-street parking will also be very damaging to highway safety.

11. You contend that the use of the garage for vehicle parking would not affect materially the external arrangements, or the amount of available parking space, nor add significantly to the amount of landscaping which could be provided in the front garden area. I do not agree. If the integral garage space were available, and used, for parking I consider that it would add quite substantially to the parking space available. Its use would be likely to give the front garden area a less cramped appearance, and would give more scope for landscaping to be planted, and to survive, there. It would also be less likely that car parking would spill out into the lane.

12. The hedge adjoining the lane is not now protected by any condition on the planning permission, and the planning permission makes no specific stipulations as to other landscaping in the front garden area. I also recognise that the formation of residential hardstandings and the removal of hedges does not normally require express planning permission. These considerations do not outweigh the other matters which I have taken into account in forming my conclusions, which include my views on the present appearance of the front garden area at the appeal site and my assessment of the changes to that appearance which, on the balance of probability, are most likely to occur in the future.

13. I recognise that the existence of an integral garage, or indeed of an ordinary parking space, does not guarantee its use for vehicle parking. But bearing in mind the rather limited amount of space available at the front of the house I think it likely, on the balance of probability, that the integral garage space would be so used. Conversely I think it less likely, if the appeal were allowed, that the integral garage space would revert to parking use at some time in the future.

14. My overall conclusion on the first two issues is that allowing the appeal on ground (a) would lead, over the course of time, to demonstrable harm to the appearance of the street scene, to highway safety and to residential amenity, interests of acknowledged importance.

15. Turning to the third issue it was clear to me from my visit that the use of the approved integral garage space as a sitting room adds to the amenities of the dwelling itself. But the residential accommodation as approved appears to me to be quite spacious in relation to the overall size of the appeal site. In the circumstances this consideration does not justify setting aside the objections to allowing the appeal set out under the first two issues.

16. You have drawn my attention to many developments in the village which you say fly in the face of the notice and erode the Council's position on your client's case. I inspected all of these sites. In my opinion your representations on these matters are of little assistance in the determination of the appeal before me.

17. Thus, none of the other cases involves the use of an integral garage as residential accommodation, and none involves a recently approved single dwelling on a plot similar to the appeal site. Some of the cases raise questions of parking provision, but those cases do not appear also to raise issues of visual impact or effects on residential amenity. I accept that some recent works in The Bit have had an adverse effect on the street scene. But some of those may not involve "development" as defined in the planning legislation, or may involve development permitted under the GDO, about which the Council can do little. Some developments may not be completed yet. For all I know the Council may decide to take action over others. None of the cases drawn to my attention suggests to me that the Council were wrong, in the present case, in seeking to protect the appearance of the area, highway safety and residential amenity. None suggests to me that the Council behaved inconsistently in the present case, having regard to the general application of their planning policies. The other cases put to me do not justify setting aside the objections outlined under the first two issues.

18. I can find no other circumstances to justify allowing the appeal on ground (a). Having considered all of the evidence I conclude that the appeal on ground (a) should fail.

The appeal on ground (f)

19. It is quite clear that there has been a breach of planning control in this case, as alleged in the notice. Condition 5 has been breached as the approved garage is being used as a living room. I take the view that condition 5 itself is valid, and meets all the tests set out in Circular 1/85. I note that the Appellant has not questioned the validity of the condition.

20. You say that the only step which needs to be taken to remedy the breach is to establish the parking situation. You also say that it is not necessary to remove the fireplace to achieve the minimum dimensions required for a garage.

21. I do not accept these views. It is my opinion that the only way in which the breach of planning control can be remedied is by altering the part of the building which has been approved as a garage so that it can be used as a garage in the future. To this end I regard it as essential that all of the steps set out in Schedule 5 to the notice are undertaken. The fireplace and chimney protrude substantially into the approved garage space and in my judgement their removal is essential to allow for the satisfactory manoeuvring of vehicles into and out of the garage. Clearly any parts of the chimney above the approved integral garage space itself would not need to be removed. For these reasons the appeal on ground (f) fails.

Other matters

22. I have examined all of the other matters raised but find nothing to change my decision.

FORMAL DECISION

23. For the above reasons and in exercise of the powers transferred to me I hereby dismiss your client's appeal, uphold the notice and decline to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act.

RIGHT OF APPEAL AGAINST DECISION

24. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Gentlemen
Your obedient Servant



A J J STREET MA(Oxon) DipTP MRTPI
Inspector

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IMPORTANT:- THIS COMMUNICATION AFFECTS YOUR PROPERTY

DACORUM BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

ENFORCEMENT NOTICE

Breach of Planning Condition

LAND ADJACENT TO THE BREWHOUSE, THE BIT, WIGGINTON,
HERTFORDSHIRE

W H E R E A S:

- (1) It appears to the Dacorum Borough Council ("the Council") being the local planning authority for the purposes of s.172 of the Town and Country Planning Act 1990 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 years before the date of issue of this Notice on the land or premises ("the Land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the failure to comply with a condition subject to which planning permission was granted on the date and for the development described in Schedule 2 below.
- (3) The condition of the said planning permission which does not appear to have been complied with is set out in Schedule 3 below and the respects in which it does not appear to have been complied with are set out in Schedule 4 below.
- (4) The Council considers it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this Enforcement

Notice, in exercise of its powers contained in the said section 172, for the reasons set out in the annex to this Notice.

NOTICE IS HEREBY GIVEN that the Council requires that the steps specified in Schedule 5 below be taken in order to remedy the breach and in order to make the development comply with the terms of the said planning permission within the period of three months from the day on which this Notice takes effect

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of s.175(4) of the Act, on 16th January 1992.

SCHEDULE 1

LAND OR PREMISES TO WHICH THIS NOTICE RELATES:

Land adjacent to the Brewhouse, The Bit, Wigginton, Hertfordshire shown edged red on the attached plan

SCHEDULE 2

THE DEVELOPMENT:

Submission of reserved matters pursuant to 4/0947/89 (House and Garage).

DATE OF PLANNING PERMISSION:

18 December 1990

SCHEDULE 3

THE CONDITION WHICH DOES NOT APPEAR TO HAVE BEEN COMPLIED WITH:

Condition 5 - The integral garage shall not be used primarily for any purpose other than the parking of vehicles incidental to the enjoyment of the dwellinghouse

SCHEDULE 4

ALLEGED BREACH OF PLANNING CONTROL:

Failure to comply with the condition cited in Schedule 3 above in that the space allocated for the integral garage on the approved plans accompanying the application described in Schedule 2 above has been utilised for the construction of a domestic room: on the front elevation a floor to ceiling patio window with a cill height of 250 mm above driveway level has been inserted, and a fireplace and chimney have also been constructed in the space.

SCHEDULE 5

STEPS REQUIRED TO BE TAKEN:

To convert the domestic room referred to in Schedule 4 above into an integral garage by

- (a) removing the fireplace and chimney;
- (b) removing the patio window;
- (c) providing a garage with a finished floor level at or adjoining that of the level of the driveway, and adjusting the height of the driveway to enable a vehicle to enter the garage; and
- (d) fitting a garage door as shown on the approved plans accompanying the application described in Schedule 2 above.

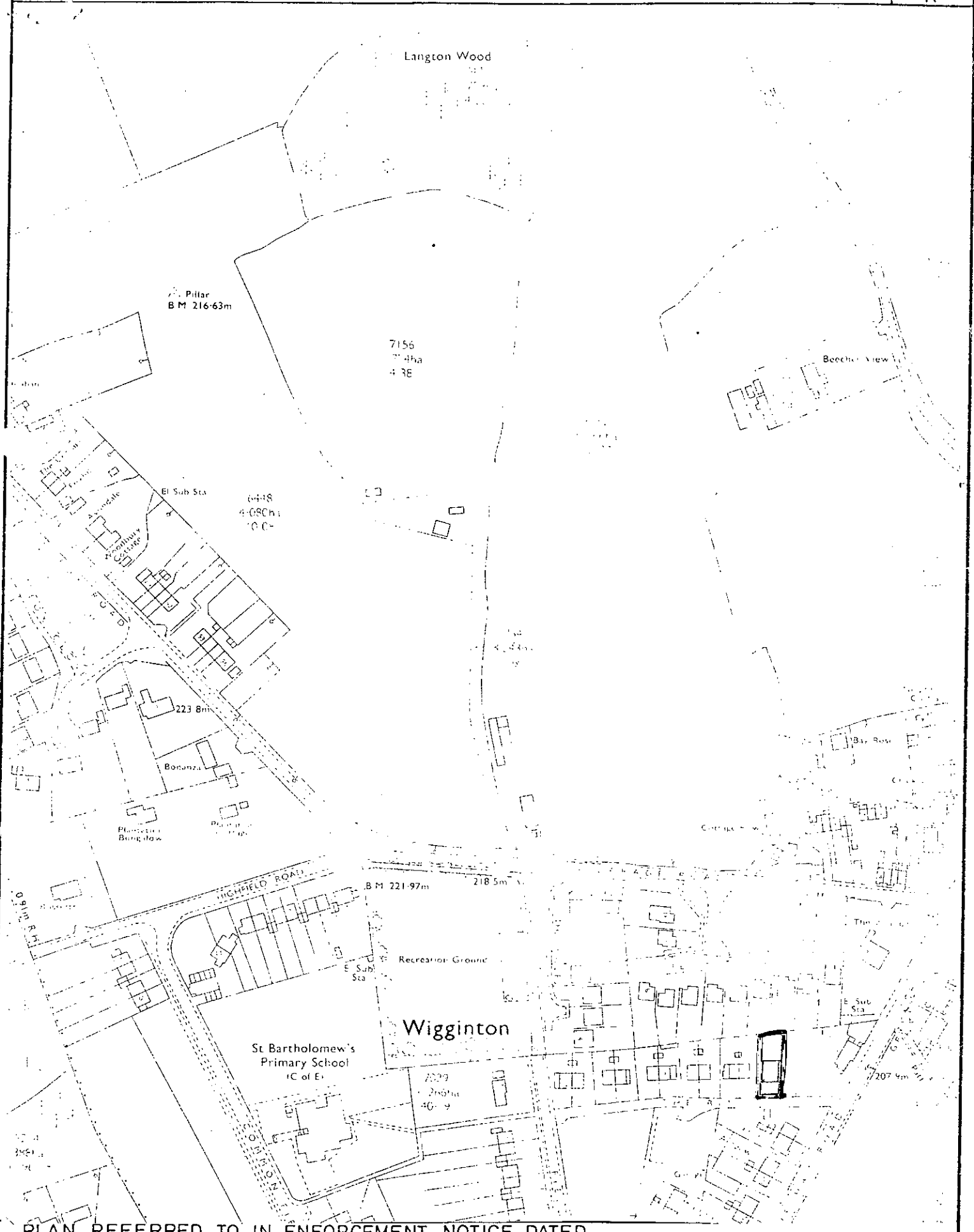
Issued 4th December 1991

Civic Centre
Marlowes
Hemel Hempstead
Herts HP1 1HH

(signed) K. M. Pugsby

(Designation) Director of Law & Administ
(The Officer appointed for this purpose)

DWELLING, LAND ADJACENT THE BREWHOUSE, THE BIT, WIGGINTON.



PLAN REFERRED TO IN ENFORCEMENT NOTICE DATED

SCALE :
APPLICATION No.

DACORUM BOROUGH COUNCIL,
CIVIC CENTRE, MARLOWES,
HEMEL HEMPSTEAD.

Based on the O.S. Map with the sanction of the Controller of H.M. Stationary Office