



# The Planning Inspectorate

B/270/JL//P

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

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*Handwritten notes:*  
1) JJJ  
2) AM  
3) [unclear]

|                               |     |      |        |      |      |
|-------------------------------|-----|------|--------|------|------|
| Dr Rasheed Mazhar             |     |      |        |      |      |
| DEPARTMENT OF THE ENVIRONMENT |     |      |        |      |      |
| WOODHALL FARM MEDICAL CENTRE  |     |      |        |      |      |
| Valley Green                  |     |      |        |      |      |
| HEMEL-HEMPSTEAD               |     |      |        |      | Ack. |
| Herts                         |     | B.C. | Admin. | File |      |
| HP2                           | 7RJ |      |        |      |      |
| Received 16 JUN 1993          |     |      |        |      |      |
| Comments                      |     |      |        |      |      |
| Sir                           |     |      |        |      |      |

Your Ref:

Our Ref:

T/APP/C/93/A1910/627261/P6

Council Ref:

4/0241/93.EN

15 JUN 1993

Date:

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6  
PLANNING AND COMPENSATION ACT 1991  
LAND AT WOODHALL FARM HEALTH CENTRE, VALLEY GREEN,  
HEMEL HEMPSTEAD

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land. I have considered the written representations made by you and the Council and those made by an interested person. I inspected the site on 5 May 1993.

2. a. The notice was issued on 12 February 1993.

b. The breach of planning control as alleged in the notice is without planning permission, the erection of an automatic car park barrier of approximately 6 m in width across the entrance to the car park at the Health Centre.

c. The requirements of the notice is:

i. Remove the barrier and its supporting structure.

d. The period for compliance with this requirement is 3 months.

3. Your appeal is proceeding on grounds (a) and (b) as set out in Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991. In other words, 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 (ground a) and that, in any event, those matters have not occurred (ground b).

4. The site of the appeal is at a Health Centre in a residential area on the edge of Hemel Hempstead. The Health Centre is located on a short cul-de-sac, Valley Green, which also serves residential properties including blocks of

3-storey flats. A large supermarket and its associated car park lies to the rear of the premises. The Health Centre has a car park to which access is gained from Valley Green. The barrier which is the subject of the notice has been erected across the frontage of the site closing off the entrance from Valley Green to vehicular traffic.

5. In your appeal under ground (b), you point out that the notice states that you have erected an automatic car park barrier when, in fact, the barrier is manually operated. I realise that there is a difference between the 2 types of barrier but, in my opinion, the description of whether it is manually operated or automatic is a minor detail. I consider that I am able to correct this misdescription in the notice by the powers available to me under Section 176(1)(a) of the 1990 Act. I shall refer to the allegation in the notice as the erection of a car park barrier and I am satisfied that the correction would not cause injustice to either party. In relation to the appeal, I consider that the notice informs you what you have done wrong and what you are required to do to remedy it. You are under no misapprehension about the nature of the breach in planning control as you have addressed it under the ground (a) appeal. Therefore, I conclude that your ground (b) appeal fails.

6. From my inspection of the site and its surroundings and the representations which have been received, I consider that the main issue in the ground (a) appeal is the effect the retention of the barrier would have on the character and appearance of the area.

7. The approved Hertfordshire County Structure Plan Alteration 1990 only contains policies which are very generalised and do not appear to bear directly on the subject of the appeal. The Council state that the adopted Dacorum District Plan does not contain any relevant policies. However, the emergent Dacorum Borough Local Plan includes Policy 8 which seeks to maintain a high standard of development by setting out guidance. The guidance includes proposals that development should be appropriate in terms of height, scale and bulk and that it should harmonise with the townscape, density and general character of the area. Although the Local Plan is not yet adopted, it is nevertheless a material consideration and due considerable weight in the appeal.

8. When I inspected the site, the pole was in an upright position, so allowing vehicular movement in and out of the car park. When the pole is horizontal, I do not believe that any visual harm would arise. However, when upright, the pole appeared so tall in relation to the single storey Health Centre and its grounds and the two nearby concrete lamp posts that, even though there were 3-storey blocks of flats in Valley Green, it looked completely out of scale. In my opinion, if the barrier were to be retained, the character and appearance of the immediate area would be significantly harmed, whatever colour it was painted, and the development

would be contrary to the policy of the emergent Dacorum Borough Local Plan to which I have referred above.

9. I realise that there may be pressure from neighbouring residents to park cars at the Health Centre, but as demonstrated in the representations from the Council, there are other methods available to stop unauthorised or unwelcome parking. I have taken into account the other factors which you have raised, including those concerned with financial and medical issues, but they do not outweigh the considerations which have led to my conclusions. Accordingly, the ground (a) appeal fails. I shall uphold the notice and I do not intend to grant permission on the application deemed to have been made.

#### FORMAL DECISION

10. For the above reasons, and in exercise of the powers transferred to me, I hereby direct that the notice be corrected by the deletion of Schedule 3 and the substitution of the following:

#### 3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the erection of a car park barrier of approximately 6 m in width across the entrance to the car park at the Health Centre.

Subject thereto, I dismiss the appeal, uphold the notice as corrected, and refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act.

#### RIGHTS OF APPEAL AGAINST DECISION

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

I am Sir  
Your obedient Servant



A MEAD BSc MRTPI AMIQ  
Inspector

ENC

APPEAL TO THE HIGH COURT AGAINST  
AN INSPECTOR'S DECISION ON AN ENFORCEMENT  
NOTICE APPEAL OR ASSOCIATED PLANNING APPEAL

An Inspector's decision on an enforcement appeal is final, unless it is successfully challenged in the High Court. Neither the Inspector nor the Secretary of State can amend or interpret the decision. It may only be reviewed if it is remitted to the Secretary of State, by the Court, for re-determination or re-consideration.

Anyone thinking of challenging an Inspector's decision is strongly advised first to seek legal advice. The following notes are intended as general guidance only.

An appeal may be made to the High Court under either or both sections 288 and 289 of the Town and Country Planning Act 1990. Different time-limits, which are explained below, apply to each type of appeal.

a) Appeals under section 288 of the 1990 Act

Section 288 provides that a person who is aggrieved by any decision to grant planning permission on the deemed application in an enforcement notice appeal, or by the decision on an associated appeal under section 78 of the Act, may question the validity of that decision by an application to the High Court on the grounds that:-

1. the decision is not within the powers of the Act;
- or
2. any of the "relevant requirements" has not been complied with.

A challenge on either of these grounds must be made within six weeks of the date of the accompanying decision letter. "Leave" of the High Court is not required for this type of appeal.

The "relevant requirements" are defined in section 288 of the 1990 Act and are the requirements of:

- a) the Town and Country Planning Act 1990
- b) the Tribunals and Inquiries Act 1971 (or any other 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:

- i) the Town and Country Planning (Inquiries Procedure) Rules 1988 (SI. 1988 No. 944);
- ii) the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987 (SI. 1987 No 701);
- iii) the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992 (SI. 1992 No 1903); and
- iv) the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991 (SI. 1991 No 2804, as amended by SI 1992 No 1904).

Copies of these may be obtained from HMSO Bookshops.

**b) Appeals under section 289 of the 1990 Act**

Section 289 provides that the appellant, the local planning authority, or any other person having an interest in the land to which the enforcement notice relates, may appeal to the High Court "on a point of law" against the Inspector's determination of an enforcement notice appeal.

An appeal under section 289 may only proceed with the leave of the Court. An application for leave to appeal must be made to the Court within 28 days of the date of the Inspector's decision, (unless the period is extended by the Court).

The appeal procedure involves the submission of what is called a "Notice of Motion" to the Crown Office in the Royal Courts of Justice. You are strongly recommended to consult a qualified legal adviser about this procedure and its estimated cost to you.

**INSPECTION OF INQUIRY DOCUMENTS**

Any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State, in writing within 6 weeks of notification, for an opportunity to inspect any documents, photographs or plans appended to the decision. These will be listed at the end of the Inspector's decision letter. Your application should be sent to Room 1404, Tollgate House, Houlton Street, Bristol, BS2 9DJ, quoting the Inspectorate's appeal reference number and stating the date and time (in normal office hours) when you would wish to make the inspection. Please give at least 3 days' notice and include a daytime phone number, if possible.

Parties have a right to inspect the documents under the provisions of rule 17(3) of the Town and Country Planning (Inquiries Procedure) Rules 1988, and rule 20(3) of the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992.

**PLANNING INSPECTORATE AGENCY**  
Department of the Environment

August 1992

IMPORTANT - THIS COMMUNICATION AFFECTS  
YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended by the Planning  
and Compensation Act 1991)

ENFORCEMENT NOTICE  
(OPERATIONAL DEVELOPMENT)

ISSUED BY: DACORUM BOROUGH COUNCIL

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears to them that there has been a breach of planning control, under section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.

2. THE LAND AFFECTED

Land at Woodhall Farm Health Centre, Valley Green, Hemel Hempstead, Hertfordshire shown edged red on the attached plan.

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the erection of an automatic car park barrier of approximately 6 metres in width across the entrance to the car park at the Health Centre

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last four years. The height and design of the car park barrier appears incongruous and out of character in a largely residential area.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Remove the barrier and its supporting structure.

Time for compliance: 3 months after this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 26th March 1993, unless an appeal is made against it beforehand.

Dated: 12th February 1993

Signed: Keith M. Pugsley

Director of Law and Administration

on behalf of: Dacorum Borough Council  
Civic Centre  
Marlowes  
Hemel Hempstead  
Herts HP1 1HH

ANNEX

YOUR RIGHT OF APPEAL

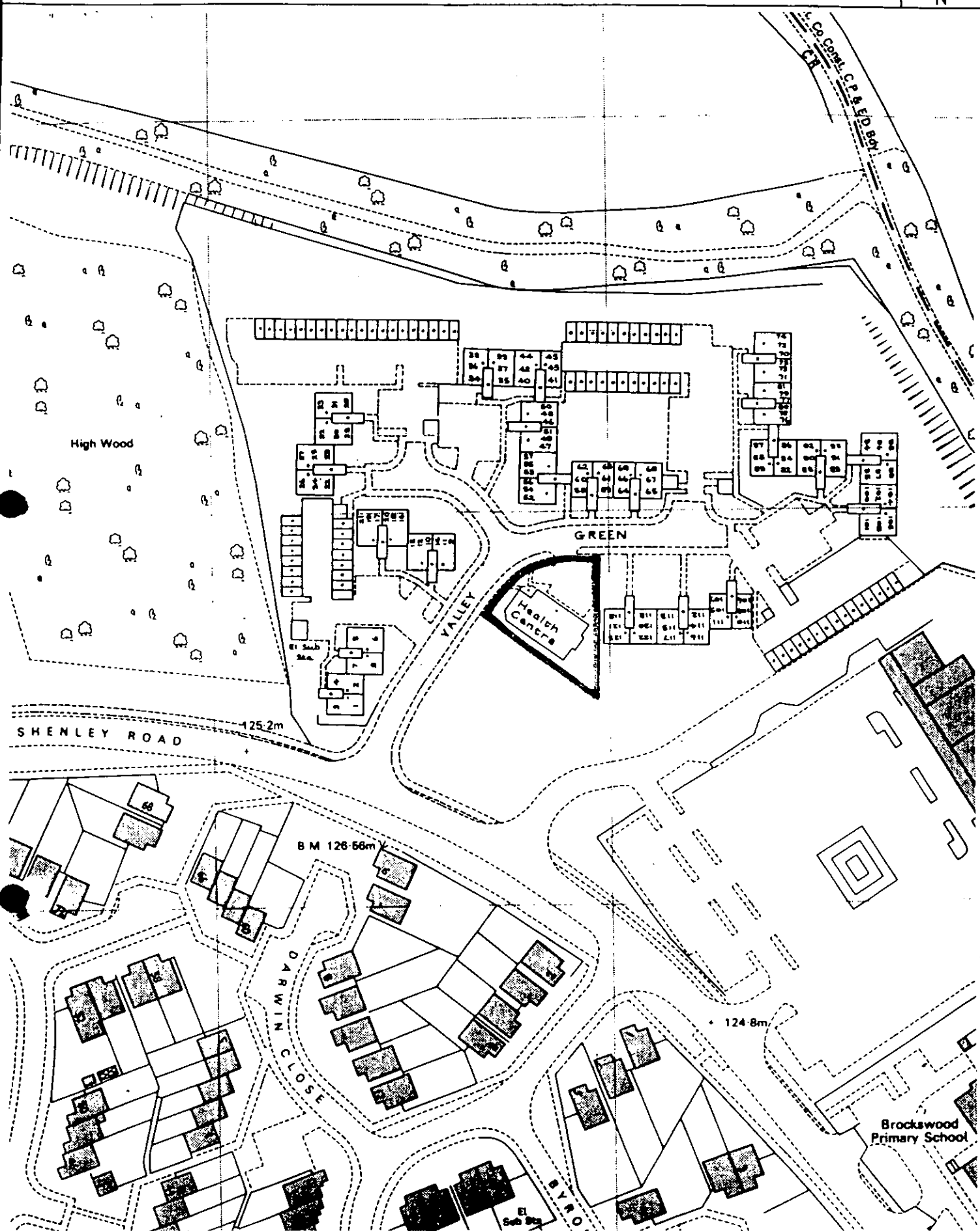
You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before 26th March 1993. The enclosed booklet "Enforcement Notice Appeals - A Guide to Procedure" sets out your rights. Read it carefully. You may use the enclosed appeal forms. One is for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State the spare copy of this enforcement notice which is enclosed.

#### WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on *26th March 1993* and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council. On conviction, a fine of up to £20,000 may be imposed by the Magistrates' Court or an unlimited fine by the Crown Court.

RH/SG





PLAN REFERRED TO IN ENFORCEMENT NOTICE DATED .....

PLANNING FILE REF. : E/ 92 / 59  
SCALE : 1:1250

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