



The Planning Inspectorate

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Handwritten notes: "1) 1374", "2) 1374", and a signature.

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RECEIVED	
Received	22 JUL 1992
Comments	

Your reference:
Council reference:
4/0479/92EN/LK
Our reference:
T/APP/C/92/A1910/618010
Date: 21 JUL 92

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY BRIAN FITZGERALD
LAND AT CROFT HOUSE, LANGLEY ROAD, CHIPPERFIELD

1. I have been appointed by the Secretary of State for the Environment to determine your client's 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 by the Council and also those made by other interested persons. I inspected the site on 6th July 1992.
2.
 - a. The notice was issued on 6th March 1992
 - b. The breach of control alleged in the notice is the erection of a garage not being the garage for which planning permission was granted under reference 4/0379/91FH
 - c. The requirements of the notice are :
 - i. Demolish the garage to eaves level
 - ii. Reconstruct the roof with the ridge on a south west to north east axis and with the maximum height of the building not exceeding 5200mm above ground level.
 - d. The period for compliance with the notice is three months.
3. The appeal is proceeding on grounds (a) and (g) of Sec.174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, that is to say that planning permission ought to be granted for the development to which the notice relates (ground a) and that the period specified in the enforcement notice in accordance with Sec.173(9) falls short of what should reasonably be allowed (ground g).



4. Croft House is the first house in a ribbon development of detached and semi detached houses along the northern side of Langley Road as it runs from the village into open countryside. To the west of the appeal site there is a large commercial garage and beyond that the older development of the village which is on a small scale and set close to the road. To the east the larger houses are set back behind a wide grassy verge and their large front gardens are enclosed by high hedges. There are open fields on the southern side of the road.

5. Planning permission was granted in 1991 for the erection of double garage in the front garden of Croft House behind a tall hedge on the road frontage. The garage that was approved had a square ground plan of 7 X 7 metres whereas that built is 8 X 6 metres. As a result the axis of the roof ridge has been changed and the overall height increased by approximately 1 metre which has allowed the introduction of a games room at first floor level. This room is lit by windows in the gable ends which face towards the road and the house itself and by two small roof lights that face north east towards the adjoining property. It is the impact of the height and orientation of the roof which concern the Council, the Parish Council and the nearby residents.

6. From my inspection of the site and its surroundings and from the representations made I consider that the main issues in the case of the ground (a) appeal and the application deemed to have been made under Section 177(5) of the 1990 Act are whether the retention of the garage as constructed would cause unacceptable harm to the character and appearance of the area and to the living conditions of nearby residents.

7. The garage is screened from the road by a high thick hedge. It cannot be seen from directly in front of the property and the hedge and other planting in the garden allow only glimpses from the public highway to the north east. The principle public view is along Langley Road from the village where the roof can be seen over the close boarded fence that marks that boundary of the property. There is also concern about its impact upon the public footpath that runs between that boundary fence and the chainlink that defines the adjoining garage.

8. You say that the L shaped configuration of the house and garage provides a more satisfactory design which encloses the garden and protects it from the noise and lights of the adjoining garage. The sloping roof which is covered in superior plain tiles is less prominent than a gable would have been in views from the south west which are in any event dominated by the garage. I agree. The simple tiled roof is visible between the tall trees on the site frontage and other trees on the boundary of the site with the footpath. In my opinion it provides a simple backdrop to the canopy, signs and flags on the adjoining garage and clearly separates that site from the residential development beyond. A gable would have added to the visual confusion and would have had a greater impact upon the footpath than the present roof which recedes from boundary rather than rising immediately adjacent to it. In this context I do not consider that the increase in height makes any material difference to the visual amenities of the area.

9. Adjoining owners have expressed concern about a loss of view and of privacy. The garage roof can be seen over the planting and hedges that separate the front gardens but, while its new orientation may have marginally reduced the area of sky that could be seen, I consider that it has the advantage of effectively screening the garage buildings and signs and associated activity from the residential development which must be of some overall benefit.

10. I visited the new first floor room and saw that, because the rooflights are small and set high in the roof, it is not possible to see into the garden of the adjoining property except from a position immediately adjacent to the window. I appreciate that the front garden of April Cottage has benefited from being less open to the usual overlooking from the adjoining properties because the house is set forward. While I understand that the occupiers may now feel that they are more directly overlooked, I do not consider that the normal use of the games room will result in any material loss of privacy.

11. While I do not condone the erection of the garage without planning permission I have concluded that it does not cause unacceptable harm to the character and appearance of the area or the living conditions of the adjoining residents. The principle of the erection of the garage has been generally accepted and I do not consider that, in the particular circumstances of the this case, the granting of approval for the retention of the building as constructed could be regarded as a precedent that would prevent the Council from considering any subsequent proposals on their own merits. I have taken into account all the other matters raised but none are of such weight as to override the conclusions I have reached.

12. I propose to grant planning permission. The appeal under ground (a) therefore succeeds and it is not necessary for me to consider the appeal under ground (g).

FORMAL DECISION


13. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal, direct that the enforcement notice be quashed, and grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act for the retention of the garage at Croft House, Langley Road, Chipperfield.

14. This letter does not convey any approval or consent required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir
Your obedient Servant

William 

W R CARLOW MA MRTPI
Inspector

DEPARTMENT OF THE ENVIRONMENT
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RIGHT TO CHALLENGE THE DECISION

a) On an enforcement appeal except any decision to grant planning permission on the deemed application under section 177(5) of the Act

An appeal against the decision given in the accompanying letter on the enforcement notice appeal may be made to the High Court on a point of law under the provisions of Section 289 of the Town and Country Planning Act 1990. Any appeal must be made within 28 days of the date of receipt of this letter (unless the period is extended by the Court).

b) On a decision to grant planning permission on the deemed application under section 177(5) of the Act, or where there is a related appeal under section 78 of the Act

Section 288 of the Town and Country Planning Act 1990 provides that a person who is aggrieved by the decision, given in the accompanying letter, to grant permission on the deemed application, or by the decision on the appeal made under section 78 of the Act, may challenge its validity by an application to the High Court within six weeks from the date of this letter. The grounds upon which an application may be made to the Court under Section 288 are that:-

1. the decision is not within the powers of the Act (that is, the Secretary of State has exceeded his powers); or
2. any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 288 of the Act: they are the requirements of that Act, 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. This includes the Town and Country Planning (Inquiries Procedure) Rules 1988 (SI. 1988 No 944), the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987 (SI. 1987 No 701), the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981 (SI. 1981 No 1743), and the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 (SI. 1981 No 1742).

A person who thinks he may have grounds for challenging the decision should first seek legal advice.

INSPECTION OF DOCUMENTS

(only for appeals decided following a local inquiry)

Under the provisions of rule 17(3) of the Town and Country Planning (Inquiries Procedure) Rules 1988, and rule 16(4) of the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981, 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 the notification to him of the decision, or the supply to him of the Inspector's report, whichever is the later, for an opportunity of inspecting any documents, photographs and plans appended to the report. Such documents etc are listed in an appendix to the report. Any application under this provision should be sent to the address on the decision letter, quoting the Department's reference number shown on the decision letter and stating the proposed date and time (in normal office hours) for the inspection. At least 3 days' notice should be given, if possible.