



# The Planning Inspectorate

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D.O.P.	E.D.	D.P.	D.C.	S.C.	S.S.	FILE
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Mr G W Penticost  
36 Broadfield Road  
Adeyfield  
HEMEL HEMPSTEAD  
Herts  
HP2 4DP

**Received****10 DEC 1998**

Your Ref:

**Comments**

Our Ref:

T/APP/A1910/A/98/300081/P8

Date:

-8 DEC 1998

Dear Sir

## TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6 APPEAL BY MR G W PENTICOST APPLICATION NO: 4/00698/98/FHA

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your appeal against the decision of the Dacorum Borough Council to refuse planning permission for a two storey rear extension at 36 Broadfield Road, Adeyfield, Hemel Hempstead. I have considered all the written representations together with all other material submitted to me. I inspected the site on 24 November 1998.

2. From the representations made and from my inspection of the site and its surroundings I consider that the main issue is the effect which the proposed development would have on your neighbours' amenity.

3. Section 54A of the above Act requires that an application for planning permission or an appeal shall be determined in accordance with the development plan unless material considerations indicate otherwise. With regard to relevant provisions of the development plan, policy 8 of the Dacorum Borough Local Plan deals with the quality of new development and policy 9 relates to environmental guidelines for development. Policy 8 seeks a high standard for development, requiring among other things that development should be appropriate in terms of layout, design, scale, bulk and height, and that it should respect the general character of the area and avoid harm to adjoining properties. A section of the environmental guidelines deals specifically with rear extensions, and emphasises that the Council's prime concern is to safeguard amenities in the public interest. The guidelines state that extensions should be of limited length and wherever possible should not be built on a boundary; they should not excessively enclose or seriously affect the daylighting to an adjoining property's habitable rooms; and two storey extensions should not project beyond a line taken at a 45° angle from the nearest windows of habitable rooms in adjacent properties.

4. I note that these policies form part of an up-to-date, adopted local plan and I have therefore attached significant weight to them, in accordance with government advice.

contained in Planning Policy Guidance 1. With regard to private interests and amenity, Planning Policy Guidance 1 also advises that the basic question is whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest, with good neighbourliness and fairness being among the yardsticks against which development proposals can be measured.

5. You propose a two storey extension which would project 3 metres from the rear of your house and which would be built across the entire width of your property, from side boundary to side boundary. While I acknowledge that the windows of the extension would be unlikely to increase any overlooking of neighbouring properties, it is nevertheless clear to me that the extension would comprise a substantial addition to your house, and would project rearwards much further than the 45° line stipulated in the Council's environmental guidelines. I noted on my site visit that the houses on either side had ground floor windows of habitable rooms situated only a short distance from the side boundary, and in this context I consider that the bulky, two storey form of the extension would be sited so close to these windows that it would have an unpleasantly oppressive and overbearing effect on your neighbours' outlook.

6. I have therefore concluded that your proposal would result in an unneighbourly form of development which would harm the amenity of your neighbours, contrary to the aims of the local plan and also national policy. I have taken into account your references to other two storey extensions in the neighbourhood, but on my site visit I saw no such extensions in the immediate vicinity of your house. In a wider context, I observed the extension at No 6 Sawyers Way to which you have specifically drawn attention. I consider, however, that this extension is significantly less bulky than the one you propose and therefore does not in my opinion serve to justify your particular proposal.

7. Similarly, I have 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.

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

Yours faithfully

*Terence Povey*

TERENCE N POVEY BA BArch MA FRTPI RIBA MIMgt  
Inspector

# The Planning Inspectorate

*An Executive Agency in the Department of Environment, Transport and the Regions, and the Welsh Office*

## RIGHT TO CHALLENGE THE DECISION

The attached appeal decision is final unless it is successfully challenged in the Courts. If a challenge is successful, the appeal decision will be quashed and the case returned to the Secretary of State for redetermination. It does not follow necessarily that the original decision on the appeal will be reversed when it is redetermined.

*You may wish to consider taking legal advice before embarking on a challenge. The following notes are provided for guidance only.*

Under the provision of section 288 of the Town and Country Planning Act 1990, or section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990, a person who is aggrieved by a decision may seek to have it quashed by making an application to the High Court on the grounds:

1. that the decision is not within the powers of the Act; or
2. that any of the 'relevant requirements' have not been complied with; ('relevant requirements' means any requirements of the 1990 Acts or of the Planning Tribunals Act 1992, or of any order, regulation or rule made under those Acts).

The two grounds noted above mean in effect that a decision cannot be challenged merely because someone does not agree with the Inspector's judgement. Those challenging a decision have to be able to show that a serious mistake was made by the Inspector when reaching his or her decision; or, for instance, that the inquiry, hearing or site visit was not handled correctly, or that the appeal procedures were not carried out properly. If a mistake has been made the Court has discretion not to quash the decision if it considers the interests of the person making the challenge have not been prejudiced.

**It is important to note that such an application to the High Court must be lodged with the Crown Office within 6 weeks from the date of the decision letter. This time limit cannot be extended.**

An appellant whose appeal has been allowed by an Inspector should note that 'a person aggrieved' may include third parties as well as the local planning authority.

If you require further advice about making a High Court challenge you should consult a solicitor, or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London WC2 2LL. Telephone: 0171 936 6000.

## **INSPECTION OF DOCUMENTS**

It is the Inspectorate's policy to retain case files for a period of one year from the date on the Inspector's decision letter. Any person entitled to be notified of the decision in an inquiry case has a legal right to apply to inspect the listed documents, photographs and plans within 6 weeks of the date of the decision letter. Other requests to see the appeal documents will not normally be refused. All requests should be made to Room 14/04, Tollgate House, Houlton Street, Bristol BS2 9DJ, quoting the Inspectorate's appeal reference and stating the day on which you wish to visit. Please give at least 3 days' notice and include a daytime telephone number, if possible.

## **COMPLAINTS TO THE INSPECTORATE**

Any complaints about the Inspector's decision letter, or about the way in which the Inspector has conducted the case, or any procedural aspect of the appeal should be made in writing to the complaints officer in Room 14/04, Tollgate House, Houlton Street, Bristol BS2 9DJ. Telephone: 0117 987 8927, quoting the Inspectorate's appeal reference. You should normally receive a reply within 15 days of our receipt of your letter. You should note however, the Inspectorate cannot reconsider an appeal on which a decision letter has been issued. This can be done following a successful High Court challenge as explained overleaf.

## **PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (THE OMBUDSMAN)**

If you consider that you have been unfairly treated through maladministration on the part of the Inspectorate or the Inspector you can ask the Ombudsman to investigate. The Ombudsman cannot be approached direct; reference can be made to him only by an MP. While this does not have to be your local MP (whose name and address will be in the local library) in most cases he or she will be the easiest person to approach. Although the Ombudsman can recommend various forms of redress he cannot alter the Inspector's decision in any way.

## **COUNCIL ON TRIBUNALS**

If you feel there was something wrong with the basic procedure used for the appeal, a complaint can be made to the 'Council on Tribunals', 22 Kingsway, London WC2B 6LE. The Council will take the matter up if they think it comes within their scope. They are not concerned with the merits and cannot change the outcome of the appeal decision.