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PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL					
Ref.					Ack.
C.P.O.					Our reference
T.C.P.M.					Adm. Ref.
D.P.					Adm. Ref.
D.C.					Adm. Ref.
D.C.					Adm. Ref.
Council reference					4/0305/91EN
Received					16 SEP 1991
Comments					Date

16 SEP 91

37509

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
LAND AT 12 GLENVIEW ROAD, HEMEL HEMPSTEAD

CHIEF EXECUTIVE OFFICER	
16 SEP 1991	
File Ref.
Refer to	DP 16/9
Cleared

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, the Council and interested persons, and I inspected the site on 2 July 1991.

2. a. The notice was issued on 24 January 1991.

b. The breach of planning control alleged in the notice is the carrying out of building operations without the grant of planning permission required for that development, in that the height of the detached double garage is 0.6 m above that permitted by the approved plan reference 4/0792/89.

c. The requirement of the notice is to reduce the overall height of the garage to 4.3 m, in accordance with the approved plan.

d. The period for compliance with the notice is six months.

e. The appeal was made on the ground set out in S.174(2)(a) of the 1990 Act.

3. No 12 is one of a terrace of houses on the north side of Glenview Road, which climbs quite steeply from west to east; the land also rises to the north, so that the back gardens are at a higher level than the houses. The garage the subject of the notice stands at the far end of the garden, more than 20 m from the house. It is served by a track which gives access to a number of other garages not only behind Glenview Road but also to the rear of houses in Sunnyhill Road, which lie on lower ground to the west. The other

garages are low sheds, mostly with flat roofs, some apparently in sound condition and others rather dilapidated. The subject garage, by contrast, is a substantial brick and blockwork building with a pitched roof; at the time of my inspection it was incomplete, and the roof had not yet been tiled.

4. Although there is no appeal on ground (c), you submit in your Statement of Facts that the Council's measurements exaggerate the actual height of the garage. The approved drawing shows a ridge-height of 4.3 m, and the authority allege that the ridge as built is 4.9 m high. It was difficult for me to check the height on site, but the best estimate that could be made was that it is 5.1 m; this suggests that the Council's figure is not an over-estimate and, in the absence of any other evidence, I find that if an appeal had been made on ground (c) it would not have succeeded.

5. As to the appeal on ground (a), I find that the main issue is the effect of the garage on the appearance of the surrounding area; representations made by neighbouring residents also raise the question of its effect on their privacy.

6. The Council's objection is that, by reason of its location on high ground and the height of the building itself, the garage is dominant and obtrusive. In view of its position and the fact that the other sheds and garages nearby are very low buildings, I agree that the structure is conspicuous. However, I consider that the discrepancy between its actual height and the approved height, which appears to result entirely from a change in the pitch of the roof, makes no material difference to the prominence of the building, and I therefore conclude that your appeal should succeed.

7. Your neighbours' concern about privacy arises from their belief that the roof space may be intended for use as a playroom, for which purpose windows would have to be added. As I understand the relevant legislation (the Town and Country Planning General Development Order 1988 as amended, Part 1 of Schedule 2, Class E), the insertion of such windows would require the permission of the authority as they would constitute an alteration to a building more than 4 m high within the curtilage of a dwellinghouse. In case my interpretation of the Order is wrong, I have considered whether a condition prohibiting the insertion of windows should be imposed on the permission which I intend to grant under Section 177(5) of the Act. However this is an area of terraced houses where back gardens are already substantially overlooked from upper windows, and the garage is over 25 m from the nearest window of any dwelling; in these circumstances I conclude that such a condition is not necessary.

8. In reaching my decision on this appeal I have taken into account all the points made in the representations, including the Council's complaint that the door is not as shown on the approved plan. It seems to me that this point is unrelated to the allegation made in the notice and in any event I find no fault with the door which has been fitted. Therefore this consideration does not alter my conclusions, nor do I find anything to do so in the other representations I have read.

FORMAL DECISION

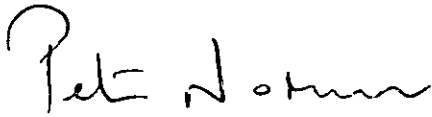
9. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your appeal, direct that the notice be quashed and grant planning permission on the application deemed to have been made under Section 177(5) of the Act for the retention of the detached double garage at 12 Glenview Road, Hemel Hempstead at a height 0.6 m above that permitted by the approved plan reference 4/0792/89.

10. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

RIGHT OF APPEAL AGAINST DECISION

11. 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 Sir
Your obedient Servant

A handwritten signature in cursive script, appearing to read "Peter Norman".

PETER NORMAN MA MRTPI
Inspector

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