

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF

DACORUM

IN THE COUNTY OF HERTFORD

To Mr. R. Stratfull,
"Greenleigh",
Orchard Leigh,
CHESHAM,
Bucks.

Messrs. Cruickshanks,
Rye House,
29 London Road,
HIGH WYCOMBE,
Bucks.

Re-development of Garage Workshops,

at Piccotts End Lane Garage, Hemel Hempstead.

Brief
description
and location
of proposed
development.

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated
8th August, 1977, and received with sufficient particulars on
9th August, 1977 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

1. The proposed development would extend and consolidate an existing non-conforming use in an area without notation on the approved County Development Plan and an 'area of great landscape value' in the Policy Statement "Hertfordshire 1981" wherein it is the policy of the local planning authority not to permit development unless it is required for agriculture or a purpose directly related to the needs of the rural community; no such need has been proven in this case.
2. The proposed development is excessive and constitutes over-development of the site with inadequate vehicle manoeuvring and parking facilities to meet adopted standards.
3. The expansion and consolidation of the non-conforming use would lead to increased activity on the site to the detriment of the amenities enjoyed by surrounding residents and would lead to increased parking and traffic movement in Piccotts End Lane which is considered to be unsuitable for such an increased use.

Dated 15th day of September, 1977.

Signed



Designation Director of Technical Services.

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Whitehall, London, S.W.1.) The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.

DACORUM DISTRICT COUNCIL

APPEALS

by

MR AND MRS R STRATFULL

against an

ENFORCEMENT NOTICE

and by

MR R STRATFULL

against a

REFUSAL OF PLANNING PERMISSION

Inspector: A B Salmon CEng FICE FRPI

Date of Inquiry: 25 April 1978.

File No: APP/5252/C/76/3938.9 &
/A/77/9530

A/85/9.5

Tollgate House
Houlton Street
BRISTOL
BS2 9DJ

18 May 1978

To The Right Honourable Peter Shore MP
Secretary of State for the Environment

Sir

I have the honour to report that on Tuesday 25 April 1978 I held an inquiry into appeals by Mr and Mrs R Stratfull under Section 88, and by Mr R Stratfull under Section 36 of the Town and Country Planning Act 1971 against an enforcement notice served by and a refusal of planning permission, by the Dacorum District Council. The site is at Piccotts End Lane, Piccotts End, Hemel Hempstead.

1. a. The date of the notice is 13 July 1976.

b. The breach of planning control alleged in the notice is that within a period of 4 years before the date of service of the notice the land shown verged red on the attached plan No 2 has been developed by the carrying out thereon of building operations and by the making of a material change in the use thereof namely:

1. the erection on the said land of a building in the position indicated by red hatching on the attached plan No 1.

2. The erection on the said land of a further building in the position indicated by black verge and hatching on plan No 1.

3. The erection of timber fencing on the south-western and south-eastern boundaries of the said land and steel box section gates and supporting posts on the eastern boundary in the positions indicated by green lines on plan No 1.

4. The construction on the said land of a concreted floor base in the position indicated by red hatching on plan No 1 and rear wall adjacent thereto, indicated by blue line on plan No 1.

5. Change of use of the part of the said land indicated by yellow verge on plan No 1 to use for parking of vehicles in connection with the use for repair of motor vehicles of the building erected on the land verged red on plan No 1.

c. The requirements of the notice are:

1. Demolish both of the said buildings and timber fencing and gates and posts and concrete floor base and rear wall.

2. Remove from the said land all materials arising from such demolition.

3. Discontinue the use of the part of the said land indicated by yellow verge on plan No 1 for parking of vehicles in connection with any unauthorised use of any part of the said land.

- d. The period for compliance with the notice is 2 calendar months.
 - e. The appeals against the notice were made on grounds 88(1)(a), (b), (f) and (g).
2. a. The development for which planning permission was refused is -- redevelopment of garage workshops.
 - b. The reasons for refusal were:
 1. The proposed development would extend and consolidate an existing non-conforming use in an area without notation on the approved County Development Plan and an 'area of great landscape value' in the Policy Statement "Hertfordshire 1981" wherein it is the policy of the local planning authority not to permit development unless it is required for agriculture or a purpose directly related to the needs of the rural community; no such need has been proven in this case.
 2. The proposed development is excessive and constitutes over-development of the site with inadequate vehicle manoeuvring and parking facilities to meet adopted standards.
 3. The expansion and consolidation of the non-conforming use would lead to increased activity on the site to the detriment of the amenities enjoyed by surrounding residents and would lead to increased parking and traffic movement in Piccotts End Lane which is considered to be unsuitable for such an increased use.
 3. This report includes a description of the appeal site and surroundings, the gist of the representations made at the inquiry, my findings of fact, conclusions and recommendations. Lists of appearances, documents, plans and photographs are attached.
 4. The evidence was taken on oath.
 5. During the course of the inquiry the district planning authority asked that all reference to Building D be removed from the notice and, for the appellants, the appeal on ground 88(1)(b) was withdrawn in respect of building A (please see para 8). The planning authority also asked that an error in description in the notice be corrected. This relates to Building A -- para 1(b) 1 above. The building should have been described as being indicated by red verge, not red hatching. The appellants' representative agreed to this being done and raised no issue on the point.

SITE AND SURROUNDINGS

6. Piccotts End is an old settlement along a northward extension of Hemel Hempstead High Street which is known as Piccotts End Road or just Piccotts End. The centre is about half a mile north of the town. Near the south end a narrow lane -- Piccotts End Lane -- turns off to the east, bends to the north and then eastwards again and, after about a mile passing amongst farmland reaches residential development in a district known as Grovehill. The site is on the west side of the Lane about 300 ft north of the junction.
7. The site is about 0.13 of an acre in extent. It is of irregular shape, having a road frontage of about 160 ft, depth at the south end of about 55 ft, deepening slightly and then reducing to about 35 ft after about 50 ft and tapering to about 10 ft at the north end.

8. It is in 2 parts. The southern part of about 60 ft frontage is enclosed along the south side mostly by a brick wall about 5 ft 6 ins high measured outside the site topped with dull green painted horizontal board fencing also about 5 ft 6 ins high. The east side, by the lane which here rises northward at a gradient of about 1 in 12, is marked by a brick wall of height reducing from about 5 ft to 2 ft 6 ins measured outside, with similar fencing about 6 ft high over, for some 25 ft until a pair of vertical bar outward opening gates is reached. They are about 15 ft wide by 5 ft 6 ins high. Northward from the gates there is the east end wall in yellow-stock bricks of an asbestos roofed workshop building (Building A) (Plan E). The back of this building returns along the north side of this part of the site in various bricks and rough windows, giving way to the back of an office (Building B) and end of another workshop (Building C) in wood and corrugated iron. The south side of the western part of the site is marked by a high brick wall which returns for a short distance along the west end of the south side, where there is a small WC building (Building D).

9. The northern part of the site is open to the road, generally hoggins surfaced and used for parking. For most of the west side it is separated from the land behind it by a low pollarded hedge. The land is an average of about 5 ft above this part of the site. At the south end of the hedge the boundary is continued to the buildings by some 12 ft of brick wall averaging about 7 ft high - a subject of the notice. At this south-west corner of the northern part of the site there is a small concreted area on which, at the time of the inspection, there were various, mostly secondhand, building materials and some drums. This concreted area is also a subject of the notice. Because of the impedimenta upon it its precise dimensions could not be established.

10. The south-east corner of the whole site is about 5 ft from the edge of the metalled carriageway of the lane. A few feet to the north, the rough margin becomes concreted to just beyond the approximately 2 ft ramp up to the gateway. The south end of Building A is about 8 ft 6 ins from the carriageway edge and the north end about 11 ft 6 ins.

11. Building A, built in recent years, is about 21 ft deep north-south and measures about 35 ft along its north side and about 30 ft along the south side, where there are sliding, plywood faced doors. It is equipped as a motor repair workshop and there was a car and a van in it at the time of the inspection. Building B, immediately west of Building A, is an office in wood and corrugated iron and measures about 9 ft by 14 ft. Building C, adjoining Building B, is in wood and corrugated iron. It measures about 26 ft north-south by about 21 ft. It is equipped as a motor repair workshop. There was one car in it. Building D, built in recent years, measures about 5 ft by 9 ft and has a corrugated asbestos roof about 7 ft high. It contains WC, sink, water heater etc.

12. The yard area in the south part of the site is concrete surfaced and there is a vehicle hoist at the west end. There were 4 cars there and a van on the hoist. Measured above the yard surface the south boundary shows a brick wall about 2 ft high and 5 ft 6 ins of fence over and the east boundary about 1 ft 6 ins of wall with 6 ft of fence over.

13. On the south side of Piccotts End Lane at the junction, there is a farm and its buildings, house and garden stretching for some 250 ft along the east side of the lane behind a high wall with accesses, when there is then an agricultural access strip followed by 2 bungalows built in recent years and then farmland. On the west side of the lane there are mainly various buildings and gardens at the backs of houses in Piccotts End Road, then a cottage, garage and small garden

then the appeal site, opposite the bungalows. North of the site there is rough grassland and to the west the house and garden No 62 Piccotts End.

14. Piccotts End Lane is subject to a 3 tons weight limit and it has a carriageway width of about 12 ft by the appeal site with verges to the north but not to the south. A 30 mph speed limit applies at the site and extends just to the north of it.

CASE FOR THE APPELLANTS

The material points were:

Submissions by Mr G W Knox

15. The site had been used as a garage/workshop for many years. Mr Stratfull bought it early in 1970 together with the house No 62 Piccotts End and its garden. He lived in the house. He intended gradually to improve the old commercial buildings and he did this. There had been no history of trouble with the council but in 1975 a difficulty arose between them over certain building work. The council called for plans to be submitted. An application for permission for redevelopment was refused in May 1975. This was followed by the enforcement proceedings. Mr Stratfull consulted his present agents who advised him regarding the enforcement situation and submitted plans for a fresh rebuilding scheme. This application too was refused and this was the subject of the second appeal.

16. It had been the appellants' clear intention to improve and modernise the premises and enclose the site to protect the amenities. The requirements of the notice were unreasonable and were not in the public interest. If they were complied with there would be a worse state of affairs. The new development proposals were modest and constructive and would achieve what presumably the council wanted -- an improvement in the present circumstances of this established use.

Evidence

Mr R Perrin MRTPI, called by Mr Knox

17. The workshop and yard area was completely enclosed. The difference in level on the southern boundary presented a significant physical separation between it and the neighbouring dwelling. The village was designated as a conservation area. This included the appeal site but not the bungalows on the opposite side of the lane.

18. Building A replaced an earlier, slightly smaller structure. The situation now was not materially different from what it was before but the council objected to the appearance of the new building. This could fairly easily be remedied by increasing the height of the east and north walls to form a parapet and capping them with a brick on edge course. The whole of the brickwork could then be rendered and finished in white Sandtex. The gutter and leading edge of the asbestos on the south side of the building could be concealed with timber and the whole new fascia painted in one colour. Permission should be granted for the building to remain, subject to such treatment.

19. As to the fencing on the south and east sides. This measured 8 ft above the level of the yard. It was put up late in 1973. The gates were about 6 ft high. In the case of the south fence Class II(1) of the 1977 General Development Order allowed a means of enclosure 2 m high. The permitted height of the eastern boundary fence was either 1 or 2 m, depending on whether it was held that it actually abutted on the highway or not. To abut meant to border or physically touch. This was not

the case at the appeal site. It was understood that there was a margin of land outside the fence which was within the ownership of Mr Stratfull. So at most, all that could be required was a reduction in the height of the fence to 2 m. The requirements of the notice exceeded what was necessary to remedy any breach of planning control in this respect. In any event the fencing at its present height served a useful function in concealing the activities in the workshops and yard and permission should be given for it to remain.

20. The height of the wall at the south-west corner of the northern part of the site could be reduced so as not to exceed 2 m.

21. As to the effect of the notice on the northern part of the site it was not so much Building A which generated the parking but the established use of the site as a whole. Considering the requirements in this respect, the existing use was not unauthorised. It was an established use. Compliance with the requirement would not prevent the occupier from continuing to park vehicles on this land. In any event this land was part of the workshop premises and served a very useful function in enabling vehicles brought there in connection with the workshops to be kept off the highway. It was an asset to highway safety and, because of its shape and position, there was no obvious alternative use for it. Permission should be granted for its use in association with the workshops.

22. Removal of Building A would open up the view of the old wooden workshop at the back and increase the area of the open yard. The yard would inevitably be used to park vehicles and store equipment and parts. The increased exposure would reduce the visual amenities, particularly for the occupiers of the 2 bungalows. This would be compounded by removing the fencing. This was not to be commended, particularly in a conservation area.

23. Discontinuing the use of the northern part of the site was likely to encourage parking in the lane, with ensuing reduction in highway safety. Removing the concrete base and wall there would achieve little purpose.

24. No planning benefit would derive from complying with any of the requirements of the notice. Rather would it be positively harmful to the appearance of the conservation area. The business of repairing motor vehicles would go on.

25. Were it to have been the real purpose of the council to stop the use of the site, the correct action would have been by a discontinuance order. In the circumstances the council must expect the use to continue. In that case there was little to commend any enforcement action which served no purpose, other than to frustrate the reasonable expectations of the owner and occupier to be able to use the site for a purpose already established beyond doubt. The council's actions in connection with this site seemed to indicate that they were trying to make its use so difficult that those concerned would give up. This was an unfair approach and it would benefit no one.

26. There were 2 ways of dealing with the site, first, if it was considered that on planning grounds the use had so harmful an effect on the amenities of neighbouring residents and the general public that it was unacceptable, then it should be discontinued and the appropriate compensation paid. Otherwise, if the council were not prepared to take this action, then they must be deemed to accept the existing use and accordingly encourage proposals which achieved the reasonable expectations of the appellants without unduly affecting the amenities of nearby residents or the general public.

27. It was the second alternative which the appellants sought to achieve. It was reflected in the detailed submission made to the council and which they refused on 15 September 1977 and which was now the subject of appeal.

28. This proposal embraced the demolition of all existing buildings, which covered 1,368 sq ft. In place of these, a new workshop would be built covering 1,469 sq ft. Access would be from the existing crossover. The northern part of the site would be incorporated and enclosed with the southern part and used for parking. The existing fencing would stay and a new wall and boarded fence provided where there was none at present. All this would enable the occupier to run his business satisfactorily and at the same time it would be screened from the single-storey dwellings opposite. The design was not inappropriate to the conservation area. It was important to note that the reasons given for refusal of the planning application did not include any reference to appearance.

29. Considering the reasons given for refusal, the first was a general policy statement. Taken literally it meant that all non-conforming uses (and in an area of no notation or great landscape value just about every use was non-conforming) should remain static or decline unless there was an agricultural or similar rural argument for it. This was negative planning and was not to be encouraged. Even so, Piccotts End was only a mile from the centre of Hemel Hempstead, designated a New Town. It was to be questioned whether the village was any longer an agricultural or rural community. In any case the need for premises for the car mechanic was as vital today to the rural community as perhaps the blacksmith was before. A refusal on general policy grounds should be justified in detail. Were the council to try to do this they would find that the submitted proposals were not unreasonable.

30. Essentially the second reason for refusal alleged over-development. The total usable area of the site, excluding the verge between the fence and the highway, amounted to 4,588 sq ft. The floor area of the proposed building was 1,469 sq ft, or only 32% of the site area. The rest, over $\frac{2}{3}$ of the site, would be available for parking and turning. Six spaces were shown on the northern part of the site for employees' cars and cars awaiting servicing. The total area represented the same as that currently used and known to be practical. With such a small scale activity as this, it would be unreasonable to expect a lesser site coverage than 32%. The proposal did not constitute over-development.

31. As for the last reason for refusal, the amount of covered floor space proposed was much the same as the existing. Although some of the existing was a subject of the alleged contraventions, the offending building did replace one only slightly smaller. The appeal premises had always been much the same size and the carrying out of the present proposal would be unlikely to lead to a substantial change in the activity there. So, there would not be any harm to local residents' amenities. There would be no material difference in the amount of parking or traffic movements in the lane.

32. There appeared to be 2 alternatives, either to confirm the requirements of the notice or to allow the development proposals. The effect of the first would be greatly to worsen the appearance of the site, to harm local amenities and to do nothing to enhance the conservation area. There would be no planning benefit. Otherwise, there would be a modern building and an occupier would be able to make reasonable use of the site. The appearance would be satisfactory and local amenities would not be unreasonably affected. These benefits were worthy of support. If need be, conditions could be placed on a planning permission.

33. Finally, if the continuation of the use was substantially hindered, the present occupier would have to find new premises. This would take time and the period allowed in the enforcement notice would not be sufficient. It should be increased to 6 months.

Mr Perrin cross-examined

34. Established uses should be allowed to rebuild if they did not harm the neighbourhood. The site was by the edge of the conservation area and there was nothing nearby of particularly great landscape value. The attractive buildings in Piccotts End were further to the north in the main part of the village. The use at the appeal site had been going on for a long time, whereas the 2 bungalows opposite had been built in recent years. The timber framed building previously on the site of Building A measured about 16 ft by 30 ft. The amount of repair work done at the site depended on how much business there was about and how well the work was done rather than on what space there was to do it in. Planning permission had not been obtained for any of the development alleged in the enforcement notice.

Mr Perrin re-examined

35. The height of the fencing should be measured from the level of the ground of the owner of the fencing. The present covered area as compared with that before Building A was built represented about 100 sq ft increase. This would not have any effect on the amount of business done.

Mr R Stratfull, appellant, called by Mr Knox:

36. They now lived at Chesham. They bought 62 Piccotts End and the appeal site early in 1970. He moved into the house right away and took over the existing motor repair business on the appeal site after about 4 months, when he had found the tenants other premises. He had not received any complaint from the council about the business. A complaint from the occupier of Sunnymeads (the bungalow opposite) in 1967 would be before he bought the property. He was not aware of there being any complaint since he had owned it. About 5 years ago he sold the house and the garden to the north of it and kept the appeal site. There had been no complaint from the people who bought the house. They had sold it to somebody else about 3 months ago. The wind blew the roof off the building he replaced. The site now looked a great deal better than it did when he bought it. The volume of business done there depended on the ability of the operator.

Mr Stratfull cross-examined

37. He was not aware that the previous owner of No 62 complained to the council about the business in November 1974. He had good relations with everyone around. The council's Enforcement Officer had met him on the site while he was engaged on building the toilet. He did not tell him there had been complaints from the owner of No 62. The Enforcement Officer suggested that he submit plans for approval and said he could see no problem over it. He submitted an application some time later. The work done on vehicles at the site included general mechanical work and servicing - anything found in a normal garage - a very small amount of respraying, not complete resprays. The premises were not equipped for that. There would only be a very small amount of panel beating. He understood the history of uses to include that of a coal yard during the war, then a builder's yard and for a long time, until about 1965, crashed vehicles were repaired there. There was no MOT testing now. Road testing of vehicles had always been done. While he had been running the business himself he would drive south to Hemel Hempstead, then north along the village bypass and back to the site along the main street. There were 3 men working there now, including the proprietor, all mechanics. There was insufficient space to

work on 4 cars at a time in Building A. The site at present was not very cramped but he would like more room there. With the northern part there was sufficient parking space but without it there would be a serious shortage.

Mr Stratfull re-examined

38. The man who bought No 62 from him knew what went on at the appeal site and paid market value for the house. He had never been advised by letter from the council that he had complained. It would be very difficult, if not impossible, to secure the premises if he had to comply with the enforcement notice. It was impossible to police the use of the northern part of the site for parking. Enclosing it as proposed would dispose of this problem and improve the appearance of the site.

Mr Stratfull questioned by me

39. They bought the property about May 1970 and concreted the yard soon after. He put up the fencing on the south and east sides later on. He erected Building A and the wall at the south-west corner of the northern part of the site in 1974 and at the same time laid the concrete there. He had intended having an office there. The northern part of the site was separated from the land to the west of it by the present hedge, when he bought it. He laid a hoggin surface about the same time. The former occupier of the workshop did MOT testing. He worked on his own. He found him another place to go to and moved his own equipment in from where he had run his repair business before - such as engine hoist, compressor for pumping tyres and using a spray gun, various specialised tools, gas and electric welding equipment, bench grinder, hand drills and an electric polisher. He had 2 employees - mechanics like himself. He sold the house and moved out about 5 years ago and, on 1 April 1975, he let the appeal site to Mr Hewitson who was still there with his 2 employees. He (the appellant) moved his own equipment out to other premises which he moved to.

Note: Case for the Appellants continued and concluded at paras 60 to 62.

CASE FOR THE DISTRICT PLANNING AUTHORITY

The material points were

Evidence

Mr R Hill BA MRTPI Chief Planner, called by Mr H Brown, the Council's Solicitor

40. On the approved Development Plan the site was in an area with no notation. The former Minister had ordered that it should be treated as green belt for purposes of development control. In the non-statutory "Hertfordshire 1981" the site and surroundings were in an area identified as being of great landscape value. The site lay within the Piccotts End Conservation Area designated on 6 October 1969. The 2 bungalows opposite the site were built in the late 1950's.

41. In his view, the wording of the enforcement notice did not appear to accord with its objectives. Some alterations were needed. The first was the correction to the description of Building A. That had already been agreed by the appellants. Paragraph 2(3) in the requirements, should read "Discontinue the use of the part of the said land indicated by yellow verge on plan No 1 for parking of vehicles in connection with the remainder of the said land." If that was agreed to, then para 1(iii)5 should refer to plan No 2 but if not then the reference to plan No 1 could stand but the requirement would be too restricted.

42. He could not accept that many of the items enforced against were permitted development. The wall at the south-west corner of the northern part of the site did not greatly exceed the permitted height but the south and east boundary fence and wall were well in excess of the permitted heights.

43. The notice was excessive in requiring the demolition of the fencing. The problem with the fencing was that it was too high and a dominant feature in the area. From a security point of view there seemed little point in providing such a high fence when the gates were only about 5 ft 6 ins high. The interests of security and amenity would be adequately served by a southern and eastern boundary no more than 7 ft high, measured from outside the site. The height of the gates was not unreasonable but they should be such as to screen the yard when closed. There was no need to remove the posts.

44. The main item on the notice was Building A. Bearing in mind the limited size of the site, its wholly unsatisfactory location both in relation to residential property and in terms of the narrow, poorly aligned lane the requirement to demolish the building was fully justified. It would be a positive step in reducing the consequences of over development of the site.

45. The use of the northern part of the site for parking was most unsightly and contrary to the desire to enhance the appearance of the conservation area. The land was formerly part of the curtilage of 62 Piccotts End and apparently was used as an allotment until 1972 when its level was lowered to that of the lane to facilitate its use in conjunction with the service station. Plans accompanying the only earlier planning application in 1959, when permission was granted for 2 outbuildings in the present yard area to be used as private garages, and the 1961 County Land Use Survey, showed the land in residential use as part of 62 Piccotts End (sometimes known as 62a Piccotts End). The rating lists before 1967 showed only one hereditament - House, 3 garages and store. It was not until 1972 that any commercial use was made of the northern part of the site.

46. Considering the planning application and general questions of planning merit, it was difficult to understand the claim that the proposals would not represent over-development. The site was already over-developed and over-used. Parking had overflowed onto the northern part of the site and onto the lane. Visiting vehicles were inspected there. Access and manoeuvring space at the yard was blocked by visiting vehicles or others in various stages of repair and the occasional movement of vehicles to release one from the back.

47. The result of the over-development was unsightliness and disturbance to nearby residents and inconvenience and possible danger to road users. The proposals did nothing to ease the problems overall. The net result was likely to be a worsening of traffic difficulties through fencing off the northern part. The plans showed parking for 6 vehicles. The council's standard requirement was 18, resulting from 3 spaces for each of the 4 workshop bays proposed, 3 spaces for the 3 employees and 3 additional spaces. These standards had been negotiated with the motor trade and, while the needs of individual premises were bound to vary, the shortage on the appeal site was unacceptable.

48. Visual amenity had to be considered under 2 different assumptions. Firstly that the northern part of the site formed part of the garage premises and secondly that it did not and that the enforcement notice was upheld in that respect. Under the first assumption it could be argued that the proposed scheme would be little worse than the present lawful situation. The workshop space would be much larger than the present authorised space, slightly higher and more dominant from the road and properties opposite. The particularly unsightly object - of parked vehicles on

the northern part - would be screened by the proposed wall and fencing. However, such improvement as this would afford would be offset by the use of the road in front for parking, inspections and manoeuvring because it was inconceivable that there would be space for casual or other parking within the site or that it would be used even if it were available. Under the second assumption, the appearance would surely be much worse if planning permission were to be granted owing to the larger size of the site and particularly to the much greater road frontage.

49. An assessment of the question of activity was likewise dependent upon assumptions as to the enforcement action. Comparing the development proposed with the present authorised development, it seemed reasonable to expect that the greater number of workshop bays, height of workshop entrance and general improvements to facilities would yield some return to the applicant in terms of volume of work.

50. The proposals would extend and consolidate the unsatisfactory use of this cramped site, poorly located in relation to dwellings and harmful to the appearance of the conservation area, served by the narrow, poorly aligned carriageway of the lane which, unfortunately carried a lot of traffic due to limitations of the main road network serving the northern neighbourhoods of Hemel Hempstead.

Mr Hill cross-examined

51. The north and east walls of Building A need not be demolished. They could be lowered and suitably treated to form boundary walls to the site (omitting the northern part). The rest of the building should be removed however. The wall at the south-west corner of the northern part could remain if it was within the permitted height limit. The wall and fence on the south side could be reduced in height to the permitted limit of 2 m. On the east side, the wall and fence was considered by the council to abut the highway. The space between the carriageway edge and the line of wall and fence was believed to be part of the highway and there had been no evidence to prove the contrary. The existing gates could be covered to screen the contents of the site.

52. There was no evidence so far to show that the present use of any of the appeal site was established or by any other means lawful. This matter was being considered by the council. It was possible that the use began in 1967 when a letter of objection was received by the former Hemel Hempstead Borough Council. The wording of the requirement regarding the use of the northern part of the site was wrong. It was intended to require cessation of use in connection with the motor repair business on any part of the land.

53. The appearance of the proposed development would be out of place in its setting. This was the wrong place for a motor repair garage and it should not be enlarged by the addition of the northern part of the appeal site.

54. The use of a discontinuance order was possible but not in view of the compensation which might be payable. He did not agree the alternatives put forward by Mr Perrin. Amongst other things, the limitations of the site had to be taken into account. It was quite reasonable for the council to seek to prevent improvement of facilities, expansion and consolidation. The northern part could be returned to cultivation and all the land could be incorporated and used with adjoining land, for such as domestic purposes.

Mr J P Smith, Enforcement Officer, called by Mr Brown

55. A letter was received about the business at the appeal site about October 1974, he believed from the bungalow opposite. Later there was one from 62 Piccotts End on 21 March 1975. He called at the site in October 1974 and saw alterations in progress. On 29 October he met Mr Stratfull there and told him that he should apply for planning and building regulations permission. He said he would do so. He spoke to Mr Stratfull about vehicles being displayed for sale on the northern part of the appeal site and he stopped doing it.

Mr Smith cross-examined

56. He had been to the site several times but only spoken to Mr Stratfull 2 or 3 times. He did not show him the letters of complaint but went through with him the matters complained of. The main one was overcrowding of the northern part. He did not have a home address for the appellant at the time and dealt with everything verbally. Admittedly he could have written to him care of the premises. He had had no occasion to go and see him after the applications had been submitted.

Mr Smith questioned by me

57. He did not give Mr Stratfull to understand that he would get planning permission.

Submissions by Mr H Brown, Solicitor

58. The site was in an important and vulnerable area and close to houses. The use was non-conforming. It had been suggested that the council should either require it to be discontinued or should allow it to expand. Neither action was appropriate. The council could not afford discontinuance action and they could not allow substantial expansion. The appropriate course was to limit a non-conforming use to its existing site and size. This was a very special case and there should be no expansion or consolidation whatever. The council had decided on their action in refusing planning permission for the proposed development and by serving the enforcement notice. No regard should be had to the question of there being any building on the site of Building A before it was built. Whatever was there was demolished without permission and the new one erected without permission. With substantial, additional effective undercover space more cars could be dealt with and more business done. There would be more car movements, more parking and more noise and, from the houses, more harm to visual amenity.

59. On planning merits the appeals should be dismissed. The appeal on ground (b) had been withdrawn in respect of Building A and had no relevance to any other matters the subject of the notice. There had been no planning permissions but the appellant could always keep within the General Development Order limits. The requirements of the notice called simply for what was needed to remedy the breaches of planning control. The appeals on ground (f) should fail. The period for compliance could be extended to 3 months or, if the Secretary of State felt desirable, to up to 6 months, but it should not take so long to comply with the notice.

Submissions for the appellants in response by Mr Knox

60. Objection was raised to the suggested alteration to the requirement of the notice relating to the northern part of the site. The original action by the

council was based on action taken by Mr Stratfull in constructing or reconstructing part of his premises. The site had been used for commercial operations over many years. There was no evidence of any action or interest by the council until Mr Stratfull started his building work. The Enforcement Officer called about a letter which the council had received about this building work and told him to submit applications. He did so. The council seemed to want an improvement in the appearance of the premises and that was what he tried to achieve. He submitted a constructive proposal and it should be approved. It represented only a very modest expansion of what had been there for many years. It was neither over-development nor excessive expansion.

61. The views of local residents had to be considered. Out of the large number approached by the council only 4 had written letters. The most relevant comment was contained in one from 62 Piccotts End. The writer's views were "I hope, clear as indeed are my motives. I have no wish to be instrumental in compelling a small and responsibly managed business to close. As far as I am aware, it has been trading without nuisance to its neighbours for a considerable period and I would be content for this situation to continue".

62. The Secretary of State was asked to allow the appeals subject to any conditions he might deem necessary.

CASE FOR INTERESTED PERSON

The material points were

Mr D Charteris "Sunnymeads" Piccotts End Lane

63. He had lived there for just over 2 years. He was concerned about the garage and the use of the lane. Traffic had trebled in the time he had been there and this did not help the garage use. It was unsafe to walk straight out of his gate. If the appellant's proposal was approved and the northern part was fenced, it would look better, but the customers would have nowhere to put their cars. They could only leave them in the lane and that was too narrow.

FINDINGS OF FACT

I find the following facts

64. 1. Piccotts End is an old settlement along a northward extension of Hemel Hempstead High Street, the centre is about half a mile north of Hemel Hempstead town.
2. The appeal site is on the edge of the development area on the west side of a lane which runs north-eastwards off the road near the south end of the village.
3. It is about 0.13 of an acre in area, irregular in shape, with a road frontage of about 160 ft and depth varying between about 10 ft and over 55 ft.
4. It is in 2 parts, the southern of about 60 ft frontage comprises a concreted yard and motor repair workshops etc, partly bordered by wall and fencing over; the northern part is open to the road, of shallow depth and used for parking.

5. There are generally dwellings to west, south and east, a farm to the south-east and farm or other open land to the north.
6. The lane has a carriageway about 12 ft wide and it rises northwards at about 1 in 12.
7. The site is within the Piccotts End Conservation Area, in an unallocated area in the approved development plan and in an area described as of great landscape value in "Hertfordshire 1981".
8. The appellants bought the site and adjoining house and its small garden in 1970; there was a motor repairer at the site, working on his own, at the time; about 4 months later Mr Stratfull found him somewhere else to go and moved his own motor repair business there.
9. The appellants sold the house and small garden and moved elsewhere round about the beginning of 1973; Mr Stratfull moved his motor repair equipment out to other premises and let the site to another motor repairer on 1 April 1975; he works there with 2 employees.
10. At the inquiry, established use rights for such a business at the site were claimed on behalf of the appellants but not formally and no first hand evidence was called to support the claim, which was questioned by the council.

CONCLUSIONS

65. Bearing in mind the above facts, the legal implications of which are matters for consideration by the Secretary of State, I have reached the following conclusions.

The Enforcement Notice

1. Numbered allegation 1 should be corrected by substituting the words "red verging" for "red hatching" as requested by the council and agreed to by the appellants.
2. Numbered allegation 2 should be deleted as requested by the council and the succeeding items renumbered.
3. No other alterations should be made to the allegation. The suggested change to numbered allegation 5 cannot be made because the defect claimed by the council is material.
4. Requirement 1 should begin "Demolish the said building ...".
5. Requirement 3 should not be varied as suggested because such a variation would not be in favour of the appellants.
6. As to the appeals on ground (b), there has been a breach of planning control because development in the form of building or other operations in respect of all but the last of the numbered allegations has been carried out and planning permission was required but has not been obtained. The fencing exceeds the heights permitted under the relevant Town and Country Planning General Development Order. That by the lane must be deemed to abut on the highway. Development without the necessary planning permission

has also taken place as described in the last numbered allegation, involving a further breach of planning control. The appeals on ground (b) should fail.

7. Considering planning merit, this is the wrong place for the business of a motor repairer to be carried on because of the proximity of dwellings, narrowness of the lane and the planning provisions made for the neighbourhood. I am satisfied that the use is disturbing to residents, visually, aurally and by traffic generation and general business activity. Undue traffic congestion and hazards are liable to be caused and the use does not preserve or enhance the character or appearance of the conservation area. Were the situation to arise, planning permission should not be granted for the use, nor for buildings and works to support it. It would not be in the public interest to grant planning permission for anything which would tend to expand or consolidate the business in this situation. Accordingly change of use of the northern part of the site as alleged should not be permitted. The erection of the new workshop (Building A) represents an enlargement of covered area and a consolidation of the business on this site and this should not be approved. Moreover I consider the building to be unsightly and to be harmful to the character of the conservation area. Its retention is not justified on grounds of need by the community. No significant case was made on this score and the site is so close to Hemel Hempstead that it should be considered that need could not be an overriding factor.

8. Regarding the fencing, whatever is done on the south part of the site, some form of enclosure is likely to be needed. In the absence, as at the date of the Inquiry, of any enforcement action against the present use on the site or any raising of its level, it may be assumed that the present use will carry on for the time being and fencing in the region of the height of that enforced against will be required. The existing fencing is obtrusive and in my opinion it would be no less so if and when it is repainted. It is not something which should be granted planning permission in this conservation area situation unless it is to hide something necessarily there and of significantly worse appearance in this context. For the time being at least this fence, and I believe to its present height, is serving as a visual and aural screen for the activities behind and it should be allowed to remain, but not necessarily as it is at present if and when there is successful enforcement action against the use. To cater for this contingency it seems to me that permission for the fencing the subject of the allegation in the notice should be granted for a period only of 2 years. I see no objection to the gates and posts save that when the gates are closed they should hide the contents of the southern part of the appeal site from public view. The appeals on ground (a) concerning the fencing and gates should succeed to this extent.

9. The concrete floor base at the south-west corner of the northern part of the site is not there for any authorised purpose and at the date of the inquiry was being used for standing a miscellany of goods on. I consider this to be unsightly but this use is not a subject of the enforcement notice. The base itself is not there for any purpose which could be deemed to be acceptable in a conservation area but of itself it causes no harm to any interest of importance and so it is for consideration that it might be allowed to remain as existing at the date of the inquiry. The wall could be permitted development now if no more than 2 m high and so to call for its complete removal would be excessive.

10. As to the appeals on ground (f), requirement 1 of the notice could be further varied to provide for covering the gates or otherwise providing gates

DEPARTMENT OF THE ENVIRONMENT
BECKETT HOUSE
LAMBETH PALACE ROAD
LONDON SE1 7ER

Rights of Appeal

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 246 of the Town and Country Planning Act 1971. Any appeal must be made within 28 days of the date of this letter (unless the period is extended by the Court).

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter on the appeal made under section 36 of the 1971 Act may challenge its validity by an application made to the High Court within six weeks from the date when the decision is given. The grounds upon which an application may be made to the Court under section 245 are:-

1. that the decision is not within the powers of the Act (that is, the Secretary of State has exceeded his powers); or
2. that 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 245 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 1974 (SI 1974 No. 419).

A person who thinks he may have grounds for challenging either decision should seek legal advice before taking any action.

Inspection of Documents

Under the provisions of rule 13(3) of the Town and Country Planning (Inquiries Procedure) Rules 1974, 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 from which the decision was issued, quoting the Department's reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days notice should be given, if possible.

DEPARTMENT OF THE ENVIRONMENT
BECKETT HOUSE
LAMBETH PALACE ROAD
LONDON SE1 7ER

Rights of Appeal

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter to grant permission on the deemed application may challenge its validity by an application made to the High Court within six weeks from the date when the decision is given. The grounds upon which an application may be made to the Court under section 245 are:-

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

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which when closed would screen the contents of the southern part of the appeal site from public view from the lane. Otherwise and subject to the foregoing conclusions the appeals on ground (f) should fail.

11. The question of retaining part of the north and east walls of Building A as a boundary wall to the yard and improving their appearance is perhaps a matter for a separate planning application.

12. The period for compliance with the notice appears to be a little short and could reasonably be extended to 3 months to enable the necessary arrangements to be made and work carried out.

The Refusal of Planning Permission

13. The refusal of planning permission appears to me to be justified. The proposal represents a significant expansion and consolidation of a non-conforming use which has not been shown beyond reasonable doubt to have become established. Moreover I consider that the proposed workshop and retained and additional fencing would be visibly obtrusive, particularly in their setting in a conservation area. It does not appear to me that there are any conditions which could be placed on a planning permission which would enable this development to be approved.

RECOMMENDATIONS

The Enforcement Notice

66. If it is decided that development requiring planning permission is involved, I recommend that planning permission be not granted except for the retention of the existing fencing, the subject of the notice, for 2 years, and likewise the gates for 2 years, subject to a condition that they should be heightened to the level of the top of the fence and made close boarded. I also recommend that permission be granted for the retention of the concrete base at the south-west corner of the northern part of the site and for the adjacent rear wall to remain, subject to a condition that its height be reduced to 2 metres.

The Refusal of Planning Permission

67. I recommend that the appeal be dismissed.

I have the honour to be

Sir

Your obedient Servant

A B SALMON
INSPECTOR

APPEARANCES

FOR THE APPELLANTS

Mr G W Knox
FES FFB

- Messrs Cruickshanks,
28 High Street, High Wycombe,
Bucks HP11 2AF.

He called:

Mr R Perrin
MRTPI

- Messrs Cruickshanks, as above.

Mr R Stratfull

- Appellant.

FOR THE DISTRICT PLANNING AUTHORITY

Mr H Brown

- Solicitor to the Council.

He called:

Mr R Hill
BA MRTPI

- Chief Planner.

Mr J P Smith

- An Enforcement Officer.

INTERESTED PERSON

Mr D Charteris

- Sunnymeads, Piccotts End Lane.

DOCUMENTS

By the District Planning Authority

Document 1 - List of persons present at the inquiry.

Document 2 - Notice of the inquiry and list of addressess to which sent.

Document 3 - Letters received in reply (including one already on file).

PLANS

On File

Plan A -- Plan 1 attached to enforcement notice.

Plan B -- Plan 2 attached to enforcement notice.

Plan C -- Plan 69.76.1 accompanying planning application.

Plan D -- Plan 69.76.2 accompanying planning application.

PLANS (CONT'D)

By the District Planning Authority.

Plan E - Land use and location and building key.

Plan F - Piccotts End conservation area.

PHOTOGRAPHS

By the District Planning Authority

Photograph 1 - View of site looking north.

Photograph 2 - View of site looking west.

Photograph 3 - View of site looking south-west.

APPEALS BY (a) MR. & MRS. R. STRATFUL AGAINST AN ENFORCEMENT NOTICE SERVED BY THE DACORUM DISTRICT COUNCIL IN RESPECT OF UNAUTHORISED BUILDING OPERATIONS AND USE OF LAND, AND BY (b) MR. R. STRATFUL AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE PROVISION OF WORKSHOP ACCOMMODATION AND ASSOCIATED DEVELOPMENT - PICCOTTS END LANE, HEMEL HEMPSTEAD.

Evidence of Richard Adrian Hill - B.A. M.R.T.P.I. T.D. Chief Planner, Dacorum District Council.

1. APPEAL SITE - The appeal site of just over 1/10th acre lies to the north-west side of Piccotts End Lane, a narrow lane varying in width from approximately 9' - 15' in the vicinity of the site. The relationship of the site to adjoining and nearby land uses is shown on plan B and to the village and conservation area of Piccotts End as a whole on plan A.
2. DEVELOPMENT PLAN - On the approved Development Plan the site lies in an area without specific notation. On the non-statutory Review, "Hertfordshire 1981", the site and adjoining area is identified as being of Great Landscape Value. The site lies within the adopted Conservation Area.
3. THE PLANNING APPLICATION - The application the subject of appeal (b) is a detailed application for permission to redevelop the site by means of the construction of a workshop of approximately 1500 sq. ft. and boundary walling varying in height from some 6' - 8'. The boundary fencing also encloses within the site a strip of land to the north. The consideration of whether this represents an extension of the site is examined later under appeal (a). The application was submitted in August 1977 and refused permission in September 1977 for the following reasons :-
 1. The proposed development would extend and consolidate an existing non-conforming use in an area without notation on the approved County Development Plan and an 'area of great landscape value' in the Policy Statement "Hertfordshire 1981" wherein it is the policy of the local planning authority not to permit development unless it is required for agriculture or a purpose directly related to the needs of the rural community; no such need has been proven in this case.
 2. The proposed development is excessive and constitutes over-development of the site with inadequate vehicle manoeuvring and parking facilities to meet adopted standards.
 3. The expansion and consolidation of the non-conforming use would lead to increased activity on the site to the detriment of the amenities enjoyed by surrounding residents and would lead to increased parking and traffic movement in Piccotts End Lane which is considered to be unsuitable for such an increased use.
4. GROUND OF APPEAL - Summarised, these contend that the proposals do not constitute over-development, that they would improve the appearance of the area, that they would not generate increased activity and that the property is in need of improvement which would be satisfactorily achieved by the present proposals.
- (a) OVER-DEVELOPMENT - It is difficult to understand the claim that the proposals would not represent over-development. Examination of the site readily reveals that it is already over-developed and over-used. This is witnessed by the overflow of parking onto the highway and the strip of land in dispute, the inspection of visiting vehicles on these same areas, the blocking of manoeuvring space and the access into the yard by vehicles calling or in different stages of repair and the occasional change around of vehicles to release one from within the site.

The consequences of this over-development are unsightliness and disturbance to nearby residential properties and inconvenience and possible danger to users of the highway. The existing proposals do nothing to ease the problems overall, and the net result would in my opinion be likely to be a worsening of traffic difficulties due to the fencing off of strip of land which facilitates manoeuvring. The proposals include parking for 6 vehicles on the strip of land in dispute, c.f. the local planning authority's standard of 18, i.e. 3 spaces for each of the 4 workshop bays, 3 spaces for the 3 employees, and 3 ancillary spaces. These standards have been negotiated with the motor trade, and whilst the requirements of individual premises are bound to vary, the shortage on the appeal site is unacceptable and it is this which causes the present blockage of manoeuvring space and use of the highway.

- (b) VISUAL AMENITY - It is necessary to consider this under two different assumptions, firstly, that the strip of land to the north forms part of the garage premises and, secondly, that it does not and that the enforcement notice is upheld in this respect. Under the first assumption, it could be argued that the proposals would be little worse than the existing authorised situation. The workshop premises would be considerably larger than those existing (authorised), slightly higher, and more dominant from the road and properties opposite. The particularly unsightly line of parked vehicles on the strip of land to the north would be screened by the wall and fencing, however, such improvement as this would afford would be offset by the use of the road in front for parking, inspections and manoeuvring, since it is inconceivable that there would be space for casual or other parking within the site or that it would be used even if it were available. Under the second assumption the appearance would surely be much worse if planning permission were to be granted owing to the larger size of site and, specifically, to the much greater road frontage (increased by some 100%)
- (c) ACTIVITY - An assessment of this aspect is, likewise, dependent upon assumptions as to the enforcement action. Comparing the development proposed with the existing, authorised, development, it seems reasonable to expect that the greater number of workshop bays, height of workshop entrance and general improvements that would be facilitated by the new building, would yield some return to the applicant in terms of volume of work.
- (d) The applicant does not specify the nature of the "improvements" that are necessary. Whilst these proposals might be satisfactory from his point of view, from a wider viewpoint they would extend and consolidate the unsatisfactory use of this cramped site which is poorly located in relation to residential properties. It is detrimental to the appearance of the conservation area and is served by the narrow, poorly aligned carriageway of Piccotts End Lane which, unfortunately, carries a substantial volume of traffic due to the limitations of the main road network serving the northern neighbourhoods of the town.
5. THE ENFORCEMENT NOTICE - The enforcement notice was served on 13th July 1976 and requires the demolition of the workshop adjacent to the site entrance and rear W.C. as well as the cessation of the use of the strip of land to the north of the site for the parking of vehicles and demolition of fencing, gates, posts, rear wall and concrete floor base to a small unsightly open storage area to the south-west corner of the unauthorised parking area. In a number of respects the wording of the enforcement notice does not appear to accord with the objectives. In my opinion the following alterations would seem to be necessary :-
- (i) para. 1 (iii) 1 - "The erection on the said land of a building in the position indicated by red verge on the attached plan 1".
 - (ii) para. 1 (ii) 2 - The word "black" should be "brown".
 - (iii) para. 1 (iii) 5 - The plan referred to in the last line should be plan No. 2.

- (iv) Paragraph 2 (3) - This should read, "Discontinue the use of the part of the said land indicated by yellow verge on plan No. 1 for parking of vehicles in connection with the remainder of the said land."

The appeal against the enforcement notice would appear to have been made and accepted under grounds (g), (f), (b) and (a):-

- (g) If upheld, the enforcement notice would take effect within ^{2 months} ~~35 days~~. I would accept this ground of appeal and would not consider it unreasonable for a longer period of , say, 3 months to the allowed for compliance.
- (f) The "facts" on which this appeal is based merely refer back to the planning merits and it would appear that the appeal should not have been accepted.
- (b) I could not accept the view that many of the items listed in the enforcement notice are permitted development. The wall does not greatly exceed the height limitation under class 2, but the walls and fences in other positions are well in excess of the permitted heights. The W.C. would have been permitted development under class 8 had the use of the site been the subject of planning permission granted under part III of the Act. Since this is not the case the provisions of class 8 do not apply.
- (a) In my opinion the enforcement notice is excessive in requiring the demolition of the fencing. The problem with the fencing is that it is too high and thereby dominant in the area. From a security point of view there seems little point in providing a boundary wall/fence some 11'-12' high in places when the gates are only 5' high, and I would suggest that the interests of security and amenity would be adequately served by requiring the fence fronting Piccotts End Lane and the southern boundary wall and fence to be reduced to a maximum of 7'. It would also be reasonable for the walls of the workshop to be kept to the same height when the remainder of the building is demolished. Whilst the height of the gates is not unreasonable, they should be of solid construction to screen the yard outside working hours. There is however no purpose in demolishing the posts on which the gates are hinged or the W.C.

The main item on the enforcement notice is, however, the demolition of the workshop building. Bearing in mind the limited size of the site, its wholly unsatisfactory location both in relation to residential property and in terms of the narrow poorly-aligned highway by which it is served, I would consider this requirement of the notice to be fully justified and a positive step in reducing the consequences of the over-development of the site referred to earlier.

The use of the yellow-edged strip of land for parking is most unsightly and quite contrary to the aspirations of enhancing the appearance of the conservation area. The land was formerly part of the curtilage of No. 62a Piccotts End and apparently used as an allotment until 1972 when the height was reduced to the level of the carriageway to facilitate its use in conjunction with the "Service Station". Plans accompanying the only earlier planning application in 1959, when permission was granted for 2 outbuildings to be used as private garages, and the 1961 County Land Use Survey show the land in residential use as part of No. 62a Piccotts End. The rating lists prior to 1967 show only one hereditament, i.e. House, 3 Garages & Store, and it was not until 1972 that any commercial use was made of this area.

Search at Piccotts End. 4/0867/77

CHIEF EXECUTIVE
OFFICER

12 JAN 1979



Department of the Environment
Becket House Lambeth Palace Road London SE1 7ER

Telephone 01-928 7855 ext 200

LPA Ref T409/DP/1969/76D

Messrs Cruickshanks
28 High Street
HIGH WYCOMBE
Ducks
HP11 2AF

Your reference
69/76/GWK/LML
Our reference
APP/5252/C/76/3938, 9
A/77/9530

Date 11 JAN 1979

009954

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 SECTIONS 36 AND 38
LAND AT PICCOTTS END LANE, PICCOTTS END, NEMEL HEMPSTEAD
APPEALS BY MR AND MRS R STRATFULL

1. I am directed by the Secretary of State for the Environment to refer to the report of the Inspector, Mr A B Salmon CEng FICE FRPI, who held a local inquiry into your clients' appeals against:

a. an enforcement notice served by the Dacorum District Council relating to the carrying out of building operations and the making of a material change of use, namely:

1. the erection on the said land of a building (building A) in the position indicated by red hatching on the attached plan No 1;
2. the erection on the said land of a further building (building D) in the position indicated by black verge and hatching on plan No 1;
3. the erection of timber fencing on the south-western and south-eastern boundaries of the said land and steel box section gates and supporting posts on the eastern boundary in the positions indicated by green lines on plan No 1;
4. the construction on the said land of a concreted floor base in the position indicated by red hatching on plan No 1 and rear wall adjacent thereto, indicated by blue line on plan No 1;
5. change of use of part of the said land indicated by yellow verge on plan No 1 to use for parking of vehicles in connection with the use for repair of motor vehicles of the building erected on the land verged red on plan No 1;

b. the decision of the same District Council to refuse planning permission for redevelopment of garage workshops.

2. The appeals against the enforcement notice were on the grounds set out in section 88(1)(a), (b), (f) and (g) of the Town and Country Planning Act 1971.

3. A copy of the Inspector's report of the inquiry is annexed to this letter. His conclusions are set out in paragraph 65 and his recommendation at paragraphs 66 and 67 of the report. The report has been considered.

TECHNICAL SERVICES DEPT.

PLANNING SECTION

12 JAN 1979

4. During the course of the inquiry the council requested that all reference to building D be removed from the notice, and the appeal on ground 88(1)(b) was withdrawn on behalf of your clients in respect of building A. The council also asked that an error in describing building A in paragraph 1 of the allegations ie the description as indicated by red hatching instead of red verge be corrected. The view is held that the enforcement notice is capable of being amended as proposed under the provisions of Section 83(4)(a) of the Act without injustice to your clients and it is proposed to correct the notice accordingly.

SUMMARY OF THE DECISION

5. The formal decision is set out in paragraph 14 below. The enforcement notice is being upheld subject to correction and variation. Conditional planning permission is however being granted for the retention of the fencing and gates and also the concreted floor area and wall. The section 36 appeal fails.

REASONS FOR THE DECISION

6. The evidence and the Inspector's findings of fact, which are accepted, show that the appeal site is situated on the edge of development on the west side of Piccotts End Lane which runs north-eastwards from the southern end of the old settlement of Piccotts End which lies about $\frac{1}{2}$ mile north of Hemel Hempstead town. It has an area of about 0.13 acre, is irregular in shape, has a frontage to Piccotts End Lane of about 160 ft and a depth varying between 10 ft at its northern end to over 55 ft towards the southern end. It can be divided into 2 parts. The northern part is open to the road and used for parking. For most of the west side it is separated from the land behind it by a low hedge. At the south end of the hedge the boundary is continued to the buildings by some 12 ft of brick wall averaging about 7 ft high. The southern part, of about 60 ft frontage, comprises a concrete yard enclosed along most of its southern side by a brick wall topped with horizontal board fencing. A wall with similar fencing encloses the southern end of the eastern site boundary for about 25 ft until a pair of vertical bar gates about 15 ft wide and 5 ft 6 ins high is reached, north of which is the eastern end wall of a workshop building (building A). The back of this building returns along the north side of this part giving way to the back of an office (building B) and the end of a wood and corrugated iron workshop (building C). A high brick wall marks the southern end of the western boundary and also returns for a short distance along the western end of the southern side where there is a small WC building (building D). Dwellings lie to the west, south and east of the appeal site; there is a farm to the south-east and open land to the north. Piccotts End Lane has a carriageway about 12 ft wide and rises northwards at about 1 in 12. The site is in an unallocated area in the approved development plan and in an area described as of great landscape value in the non-statutory "Hertfordshire 1981" policy document. It is also included in the Piccotts End Conservation Area. Your clients bought the site and adjoining house (62 Piccotts End) in 1970; at that time a motor repairer, working on his own occupied the site. After about 4 months Mr Stratfull moved his own motor repair business there. The yard was concreted soon after the purchase of the property in 1970 and later the fencing on the south and east walls was erected. Building A and the wall at the south-west corner of the northern part was erected in 1974 and at the same time concrete was laid there and a hoggin surface. Early in 1973 the house was sold and your clients moved elsewhere. On 1 April 1975 the appeal site was let to another motor repairer, Mr Hewitson, who at the time of the inquiry worked there with 2 employees.

7. In support of the appeals on ground (b) it was argued that under the provisions of Class II(1) of the 1977 General Development Order a fence 2 m in height was permissible on the eastern boundary of the site as the fence did not abut (which was held to mean border or physically touch) the highway. It was understood that a margin of land outside the fence was within the ownership of Mr Stratfull. All that could be required was a reduction in the height of the wall to 2 m. The height of the walls and fencing should be measured from the level of the ground of the owner of the fencing (ie from inside the yard). The council conceded that the walls and fencing other than that on the eastern boundary could be reduced in height to 2 m rather than be demolished as required in the notice, but maintained that the walls and fence on the eastern side abut the highway thus reducing the height permitted under Class II(1) of the GDO to one metre.

8. On ground (b) the Inspector reached the following conclusions:-

"As to the appeals on ground (b), there has been a breach of planning control because development in the form of building or other operations in respect of all but the last of the numbered allegations has been carried out and planning permission was required but has not been obtained. The fencing exceeds the heights permitted under the relevant Town and Country Planning General Development Order. That by the lane must be deemed to abut on the highway. Development without the necessary planning permission has also taken place as described in the last numbered allegation, involving a further breach of planning control. The appeals on ground (b) should fail".

The Inspector's conclusions in respect of the alleged building or other operations are agreed. The view is held that, in the light of the observations of the court in the case of *Lewisham Borough Council v South Eastern Railway* (1910) 8 LGR p 403 the word 'abut' does not necessarily, in law, import contiguity and that when used in a statute or statutory instrument the word must be construed having regard to the scope and object of the relevant provision and in such a way as to give effect to that provision. Accordingly, it is not considered that a fence needs to be actually situated on the boundary of a highway for it to be held to be 'abutting on' the highway for the purposes of Class II(1) of Schedule 1 to the GDO. The view is taken, on the present case, as a matter of fact and degree, that the wall and fence do abut the highway and it follows that as they are more than one metre high their erection was not permitted development under Class II(1) of Schedule 1 to the GDO. Furthermore, the view is taken that for the purposes of the Order, the height of the fence should be taken from the level of the ground on which it is erected. No arguments were put forward in support of ground (b) in connection with the allegation concerning the construction of a concreted floor base or the change of use for parking of vehicles. In this case the view is taken that the construction of a concrete base was an engineering or building operation within the meaning of Section 22(1) of the Act constituting development for which planning permission was required but not obtained which resulted in a breach of planning control and the appeal fails in respect of the concrete base.

9. With regard to the allegation concerning the use of the northern part of the site for parking it was argued on behalf of your clients that it was not so much building A that generated the parking but the use of the site as a whole - which was claimed to be established and thus not unauthorised. At the inquiry the council proposed that the requirements of the notice should be altered to read "Discontinue the use of the part of the said land indicated by yellow verge on plan No 1 for parking of vehicles in connection with the remainder of the said land". The Inspector's conclusion is agreed that this suggested change cannot be made under the terms of Section 88(5) of the Act because the variation proposed would not be in favour of the appellant. It is also

agreed with the Inspector that the use of this area after the purchase of the premises in 1970 for parking vehicles amounted to a material change of use from the former agricultural, or non use, for which planning permission was required but not obtained. A breach of planning control occurred therefore and the appeal on ground (b) fails in respect of this part of the notice also.

PLANNING MERITS

10. On the planning merits of the applications for planning permission deemed to have been made under the provisions of Section 88(7) the Inspector reached the following conclusions:-

"This is the wrong place for the business of a motor repairer to be carried on because of the proximity of dwellings, narrowness of the lane and the planning provisions made for the neighbourhood. I am satisfied that the use is disturbing to residents, visually, aurally and by traffic generation and general business activity. Undue traffic congestion and hazards are liable to be caused and the use does not preserve or enhance the character or appearance of the conservation area. Were the situation to arise, planning permission should not be granted for the use, nor for buildings and works to support it. It would not be in the public interest to grant planning permission for anything which would tend to expand or consolidate the business in this situation. Accordingly change of use of the northern part of the site as alleged should not be permitted. The erection of the new workshop (building A) represents an enlargement of covered area and a consolidation of the business on this site and this should not be approved. Moreover I consider the building to be unsightly and to be harmful to the character of the conservation area. No significant case was made on this score and the site is so close to Hemel Hempstead that it should be considered that need could not be an overriding factor.

Regarding the fencing, whatever is done on the south part of the site, some form of enclosure is likely to be needed. In the absence, as at the date of the inquiry, of any enforcement action against the present use on the site or any raising of its level, it may be assumed that the present use will carry on for the time being and fencing in the region of the height of that enforced against will be required. The existing fencing is obtrusive and in my opinion it would be no less so if and when it is repainted. It is not something which should be granted planning permission in this conservation area situation unless it is to hide something necessarily there and of significantly worse appearance in this context. For the time being at least this fence, and I believe to its present height, is serving as a visual and aural screen for the activities behind and it should be allowed to remain, but not necessarily as it is at present if and when there is successful enforcement action against the use. To cater for this contingency it seems to me that permission for the fencing the subject of the allegation in the notice should be granted for a period only of 2 years. I see no objection to the gates and posts save that when the gates are closed they should hide the contents of the southern part of the appeal site from public view. The appeals on ground (a) concerning the fencing and gates should succeed to this extent.

The concrete floor base at the south-west corner of the northern part of the site is not there for any authorised purpose and at the date of the inquiry was being used for standing a miscellany of goods on. I consider this to be unsightly but this use is not a subject of the enforcement notice. The base itself is not

there for any purpose which could be deemed to be acceptable in a conservation area but of itself it causes no harm to any interest of importance and so it is for consideration that it might be allowed to remain as existing at the date of the inquiry. The wall could be permitted development now if no more than 2 m high and so to call for its complete removal would be excessive".

The Inspector's conclusions in respect of building A and the parking of vehicles on the northern part of the area are agreed and for the reasons given by the Inspector it is not proposed to grant planning permission for the retention of the building or the use of the northern area for parking vehicles and the relative parts of the notice will be upheld. The Inspector's conclusions concerning the timber fencing on the south-western and south-eastern boundaries of the appeal site together with the gates and supporting posts are also agreed. It is therefore proposed to quash that part of the notice and grant planning permission for their retention. Although the screening condition proposed by the Inspector has been considered the view is held that this matter would be more satisfactorily dealt with by the submission of a scheme by your clients to the local planning authority and a condition to this effect has therefore been imposed. There is also agreement with the conclusions reached by the Inspector with regard to the concrete floor base. The view is taken however that the difference in height between the adjacent rear wall (about 7 ft) and that which could be permitted by virtue of Class II(1) to Schedule 1 of the GDO (2 m) is in this case of minimal significance and it has been concluded that there would be little planning advantage in requiring a reduction of its height to 2 m. It is therefore proposed to quash that part of the notice and to grant planning permission for the retention of the concrete floor base and adjacent wall indicated by red hatching and blue line respectively on plan No 1.

11. In concluding that the appeals on ground (f) should fail, the Inspector observed that the question of retaining part of the north and east walls of building A as a boundary wall to the yard and improving their appearance is perhaps a matter for a separate planning application. However, the view is taken that while the erection of walls on the site of the north and east walls of building A to heights of 2 m and one metre respectively would be permitted by virtue of Class II(1) of Schedule 1 to the GDO and need not be the subject of a separate planning application any question of retention of the existing walls would be a matter for discussion with the local planning authority. It is concluded that the requirements of the notice do not exceed what is necessary to remedy the breaches of planning control and the appeal on ground (f) therefore fails.

12. On ground (g) the Inspector concluded that the period for compliance with the notice appeared to be a little short and could reasonably be extended to 3 months to enable the necessary arrangements to be made and work carried out. These conclusions are agreed and for the reasons given by the Inspector the notice will be varied accordingly.

SECTION 36 APPEAL

13. The Inspector reached the following conclusions with regard to the section 36 appeal:-

"The refusal of planning permission appears to me to be justified. The proposal represents a significant expansion and consolidation of a non-conforming use which has not been shown beyond reasonable doubt to have become established. Moreover I consider that the proposed workshop and retained and additional fencing would be

visibly obtrusive, particularly in their setting in a conservation area. It does not appear to me that there are any conditions which could be placed on a planning permission which would enable this development to be approved".

These conclusions are accepted and for the reasons given by the Inspector it is not proposed to grant planning permission for the development proposed. The section 36 appeal is therefore dismissed.

FORMAL DECISION

14. For the reasons given above the Secretary of State hereby directs that the enforcement notice be corrected and varied as follows:-

- i. in paragraph 1 (iii) 1. by the deletion of the word "hatching" and the substitution therefor of the word "verge";
- ii. in paragraph 1(iii) by the deletion of sub-paragraphs 2, 3 and 4 and the substitution of the figure "2" for the figure "5";
- iii. in the requirements paragraph 2, line 3 by the deletion of the word "two" and the substitution therefor of the word "three";
- iv. in the requirements paragraph 2(1) by the deletion of the words from "Demolish" to "rear wall" and the substitution therefor of the words "Demolish the said building".

Subject thereto the Secretary of State upholds the enforcement notice. On the applications deemed to have been made under the provisions of Section 88(7) of the 1971 Act the Secretary of State hereby grants planning permission for the retention of the timber fencing on the south-western and south-eastern boundaries of the appeal site and the steel box-section gates and supporting posts on the eastern boundary subject to the following conditions:-

- i. at the expiration of a date of 2 years from the date of this permission the structures shall be demolished and the materials removed from the land;
- ii. the southern part of the appeal site shall be screened from public view from Piccotts End Lane in accordance with a scheme to be submitted to the local planning authority for approval within 2 months of the date of this letter and which shall be carried out within 3 months of such approval or in default of approval as shall be determined by the Secretary of State.

The Secretary of State also hereby grants planning permission for the retention of the concreted floor base and the rear wall adjacent thereto as indicated by red hatching and blue line respectively on plan No 1. The Secretary of State also hereby dismisses the Section 36 appeal against the refusal of planning permission.

RIGHT OF APPEAL AGAINST DECISION

15. This letter is issued as the Secretary of State's determination of the appeals. Leaflets B and C, enclosed for those concerned, set out the right of appeal to the High Court against the decision and the arrangements for the inspection of the documents appended to the Inspector's report.

16. This letter does not convey any approval or consent required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant

MISS E TREANOR
Authorised by the Secretary of State
to sign in that behalf

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