



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

D A Raine Esq
Ottaways
Solicitors
1 St Peter's Street
ST ALBANS
Herts
AL1 3DJ

Your Reference:
DAR/LS/Griffiths
Council Reference:

4/00960/97ENA

Our Reference: DEPARTMENT /APP/C/97/A1910/647574 DARUM BOROUGH COUNCIL					
Ref:	00 MAR 1998				Act:
DoP	D.P.	D.C.	B.C.	Aut.	
Received 10 MAR 1998					
Comments					

Dear Mr Raine

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR G W GRIFFITHS
LAND AT THE GRANGE, FEVERALLS FARM, ROE END LANE, MARKYATE, HERTS

1. I have been appointed by the Secretary of State for the Environment to determine your client's appeal against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land. I held a hearing into the appeal on 3 March 1998.

THE NOTICE

2. (1) The notice was issued on 28 May 1997.

(2) The breach of planning control alleged in the notice is the failure to comply with condition number 7 subject to which planning permission (No 4/1277/92) was granted, on appeal, on 11 March 1993, for two storey extension, demolition of reservoir and outbuilding and erection of a garage on land at The Pump House (now The Grange), Feveralls Farm, Roe End Lane, Markyate.

(3) The condition in question is as follows:

Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any Order revoking and re-enacting that Order), there shall be no extension or addition to the dwelling hereby permitted without the express written permission of the local planning authority.

(4) The notice alleges that this condition has not been complied with in that a chimney has been erected without the permission of the local planning authority.



(5) The requirements of the notice are:

(i) demolish the chimney;

(ii) permanently remove from the site all materials arising from requirement (i).

(6) The period for compliance with these requirements is six months.

GROUND'S OF APPEAL

3. Your client's appeal is proceeding on grounds (a) and (f) as set out in Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991.

THE ALLEGATION IN THE NOTICE

4. At the hearing the Council suggested that the notice should be corrected to allege unauthorised development rather than a breach of condition. This was on the basis that the height of the chimney as erected exceeded what would have been permitted under the provisions of the General Development Order and that accordingly the development was not in breach of condition 7 but was unauthorised development. You accepted the proposed correction as being reasonable and I agree. I shall correct the notice accordingly. This change can be made without injustice to either party.

SITE AND SURROUNDINGS

5. The Grange lies on high ground, in attractive countryside, with a scattering of dwellings and other buildings, to the west of Markyate. The land forms part of an Area of Outstanding Natural Beauty (AONB). The Grange itself began life as a pump house. It has been substantially rebuilt and extended to form a small chalet bungalow style house with a separate double garage, following a long planning history.

6. The building is aligned roughly on a north-south axis. It has a long plain roof slope facing eastwards, towards the front side of the house. The chimney the subject of the notice is on the north gable end. The west side of the building has two sizeable two storey extensions with gable ends facing roughly westwards. The garage, with a tall pitched roof with its ridge on a roughly east-west axis, lies to the south of the house. The building is adjoined on four sides by a good sized garden, with lawns, flower beds and hard surfaced areas. The site is surrounded by hedging but is relatively open on its east side. It lies some way from Roe End Lane and is not visible from that road. A public footpath runs north-south a little way to the west of the site and another runs roughly east-west along the north boundary of the land.

THE APPEAL ON GROUND (a)

7. The gist of the Council's case is as follows. They have been seeking over the years to conserve a relatively simple building which had begun as a brick pump house. They wish to keep the building as simple as possible and to limit its appearance of domestication. Their general approach has been supported on appeal. However the long and low structure now has a tall and bulky chimney which is totally out of proportion to the building. The Council

do not want to be unreasonable and would accept that the house might have a modest chimney, but what has been built is unacceptably dominant. It clutters the previously uncluttered eastern roof slope, and damages the appearance of the east side of the building, which to date has best retained the simple industrial character of the original pump house. It is very prominent against the sky when viewed from the footpath to the east and introduces an alien feature into the scene, causing serious harm to the landscape and AONB. As a result there is conflict with the Council's general design policy and with their policy to protect the AONB. Although it is appreciated that the Appellant has had difficulties in making his fire work properly his solution, a very tall and obtrusive chimney, is not the only means of dealing with the problem and other ways should be found.

8. Your client does not accept the Council's case and I was fully appraised of his position at the hearing.

9. In my view there are three main issues of planning merit. These concern: the impact of the chimney on the appearance of the building; the impact on the wider area; and the extent to which the development is in accord with the policies of the development plan. I recognise that in this case the appraisal of the development in relation to these issues involves a good measure of subjective judgement.

10. On the first issue I concluded on site that much of the appeal building is quite well screened from public view, even in winter conditions, by the hedging surrounding the garden and by other nearby vegetation. In consequence the visual qualities and remaining historic interest of the building can only be appreciated fully from close range, essentially from within the garden. The east side retains the original character of the building to the greatest extent. Seen from the east, front, garden I found the dominant features of the building to be the long simple roof and the fenestration. The windows dominate the east wall and in my view give it a very sculptured feel, which contrasts sharply with the simplicity of the roof. In this setting I found the chimney to be a very subsidiary element in the appearance of the building, tucked away at one end. In views of the building from the south garden I scarcely registered the chimney at all. There I was very aware of domestic features like the new garage, the hard surfaces and the garden. The west elevation is dominated visually by the two gable ended extensions and by the very strong fenestration and I did not find the chimney to be a major element in views of the building from that part of the garden.

11. The clearest views of the chimney are from the north garden. Here I did not find it to be an unduly prominent feature in relation to the size of the north elevation of the building. I was conscious also that most of it was seen against the north gable wall and against the side roofs of the extensions on the west side of the building. I did not find the bulk of the part of the chimney projecting above the gable to be excessive in relation to the rest of the elevation. The detailing of the chimney, with the exception of the long pot, appeared to me to blend well with that of the walling of the building.

12. Overall I found the chimney to be a satisfactory element in the appearance of the building, seen at close range. While I appreciate that the building began as a utility structure its visual character, and that of its site, is now essentially residential. In this context the chimney is not out of place.

13. Turning to the second issue your client's property, and the chimney, are visible to varying degrees from the footpaths to which I have referred. I saw on site that those paths are well used. Viewed from the footpaths to the west and north of the site the chimney can be seen, as a small feature of the appeal buildings, through gaps in the hedges and trees, especially in winter conditions. I did not find it to be an unduly prominent feature when seen from these directions. It was also not an unexpected feature - the chimneys of Roe End Farm house, for example, were seen nearby when walking the same paths.

14. The chimney forms a more prominent feature of the building when viewed from some sections of the most southerly footpath coming in from the east. Seen from there the vegetation around the building is at its weakest and the top of the chimney is viewed, at some points, against the sky. Even so the chimney only forms a very small element in the scene. A chimney on a building is not an alien feature in this locality and thus this chimney is not unexpected and obtrusive for that reason. When I viewed the chimney from this location I did not find it to be incongruous, or markedly out of proportion in relation to what was visible of the rest of the building, or noticeably obtrusive.

15. I conclude overall that the presence of the chimney does not have any damaging effect on the landscape around the appeal site.

16. I have considered my conclusions on these two issues in relation to the previous aesthetic judgements of Inspectors who have dealt with appeals at the appeal site, and particularly in relation to the 1997 appeal decisions. The Inspector in 1997 was very concerned about the visual impact of a proposed dormer and porch and refused planning permission for them. Those developments would have been small in scale, like the development before me, and they would have been seen against the background of the building. But they would have harmed the appearance of the "uncluttered" east roof slope. The chimney does not affect that slope or detract from its visual character in my opinion. Moreover the two developments which were refused planning permission would have been much more prominent in close up views of the building from the east garden than the chimney is. The Inspector in 1997 did permit the bedroom extension in the north west quarter of the building, which has been erected. In my opinion that development has enhanced the appearance of the rear of the building, where once there had been an unsightly flat roof. It has also increased the extent of the roof against which the chimney is seen in views from the north.

17. Turning to my third issue I take the view, shared by the Council, that the development should be judged both against the Council's general policy relating to the quality of development, policy 8 of the local plan, and against policy 90, the policy relating specifically to development in the AONB.

18. In my opinion the chimney development is in accord with policy 8. For the reasons set out above it is not inappropriate in terms of its design, scale and height. I consider that it respects the general character of the area and that its presence does not cause visual intrusion into the landscape. Its effect on the historic character of the building is neutral. It is not out of place in its setting.

19. I take the same view with regard to policy 90. This small feature has no adverse effect on the beauty of the area. It can be regarded as sympathetically sited and designed. Although it is seen on the skyline from a limited angle of view it does not have a harmful effect on skyline views.

20. Of the other matters raised in the appeal the major consideration has been the extent to which the height and bulk of the chimney was pressed upon the Appellant by his wish to have a properly functioning natural fire in his living room. Advice in the Building Regulations and elsewhere would suggest that the chimney is no higher than is needed to make the fire work properly in this particular situation. The Council rightly point out that many factors apart from the height and size of the chimney contribute to the proper functioning of a fire. But the balance of the evidence suggests to me that, in this exposed situation, the Appellant would be unlikely to obtain a satisfactory fire in his living room if the chimney was materially lower than the present one. This consideration does not override the aesthetic and policy issues but I find that it does weigh a little on the side of granting planning permission.

21. From my examination of all of the representations I am in no doubt that, although many of my conclusions differ from theirs, the Council's case is one of some substance and it was very ably presented by Mrs Ambrose assisted by Mr Simpson. The Council are rightly very concerned to protect an attractive, albeit not listed, building in the AONB, and to conserve the AONB, where the protection of the natural beauty of the area is of prime concern.

22. However, weighing all of the evidence of planning merit I have concluded that the retention of the chimney would not detract materially from the appearance of the building, would not harm the beauty of the AONB, and would be in accord with the relevant provisions of the development plan and that other considerations in the case tend to support the grant of planning permission. The appeal on ground (a) succeeds. The notice will be quashed and planning permission granted.

23. As the appeal on ground (a) succeeds there is no need for me to consider the appeal on ground (f).

OTHER MATTERS

24. I have examined all of the other matters raised in the representations on all aspects of the case but find nothing to change my conclusions and decision.

FORMAL DECISION

25. For the above reasons and in exercise of the powers transferred to me I hereby determine this appeal as follows:

1. I correct the enforcement notice at paragraph 1 by the deletion of the letter "(b)" at the end of the reference to "Section 171A(1)(b)" and the substitution therefor of the letter "(a)";
2. I correct the notice at paragraph 3, "THE BREACH OF PLANNING CONTROL ALLEGED", by the deletion of the whole of paragraph 3 after the heading and the substitution therefor of the words "It appears to the

Council that a chimney has been erected without the permission of the local planning authority";

3. subject thereto I allow the appeal and quash the notice. I grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act, for the development already carried out, namely the erection of a chimney, at The Grange, Feveralls Farm, Roe End Lane, Markyate, Hertfordshire.

26. 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.

RIGHTS OF APPEAL AGAINST THE DECISION

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

Yours sincerely



A J J Street MA(Oxon) DipTP MRTPI

Inspector

Enc

APPEARANCES

FOR THE APPELLANT

Mr D Raine LLB FRSA - Appellant's Solicitor
Mr J Whalen BA BArch RIBA - Appellant's Architect
Mr G W Griffiths - Appellant

FOR THE COUNCIL

Mrs J Ambrose BA BTP MRTPI - Planning Officer
Mr S Simpson MIBC - Senior Building Control Officer

DOCUMENTS

Document 1 - List of people at the hearing
Document 2 - Copy of policy 20 of the local plan

PLANS

Plan A - Enforcement notice plan
Plan B - 1993 appeal application plans
Plan C - 1997 appeal application plans