

Town Planning 4/0971/87  
Ref. No. ....

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

Other  
Ref. No. ....

THE DISTRICT COUNCIL OF  
IN THE COUNTY OF HERTFORD

DACORUM

To G D Shiells  
6 Glenview Gardens  
HEMEL HEMPSTEAD  
Herts

Conversion of dwelling to form 2 flats

at 6 Glenview Gardens, 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 permit the development proposed by you in your application dated 16 June 1987 and received with sufficient particulars on 29 June 1987 and shown on the plan(s) accompanying such application, subject to the following conditions:—

- (1) The development to which this permission relates shall be begun within a period of 5 years commencing on the date of this notice.
- (2) The flats shall not be occupied until the two car parking spaces shown on plan No. 4/0971/87 have been provided and they shall not be used otherwise otherwise than for car parking.
- (3) Before development is commenced a scheme shall be submitted to and approved by the local planning authority illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted. Such scheme as is approved shall be implemented prior to occupation of the flats hereby permitted.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:—

- (1) To comply with the requirements of Section 41 of the Town & Country Planning Act, 1971.
- (2) To ensure the adequate and satisfactory provision of off-street vehicle parking facilities.
- (3) To safeguard the amenity of adjoining properties.

Dated Twenty-sixth day of August 19 87

Signed.....

Designation CHIEF PLANNING OFFICER

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, Marsham Street, 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 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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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.

**IMPORTANT:— THIS COMMUNICATION AFFECTS YOUR PROPERTY**

(b) DACORUM BOROUGH

Council

**TOWN AND COUNTRY PLANNING ACT 1971  
(as amended)**

**Enforcement Notice<sup>(a)</sup>**

**Breach of Planning Condition to which the 4 Year Rule applies  
(Operational Development or Preventing Change of Use to Single Dwellinghouse)**

(c) 6 GLENVIEW GARDENS (ALSO KNOWN AS 6A AND 6B GLENVIEW GARDENS)  
HEMEL HEMPSTEAD

**WHEREAS:**

(1) It appears to the<sup>(b)</sup> DACORUM BOROUGH Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 years before the date of issue of this notice on the land or premises ("the land") described in Schedule 1 below.

(2) The breach of planning control which appears to have taken place consists in the failure to comply with the following condition(s) subject to which planning permission was granted on 26th August 19 87 for<sup>(d)</sup> Conversion of dwelling to form two flats.

~~that~~ [those] conditions(s) appearing not to have been complied with in the respect(s) set out in Schedule 2 below:

(e) (2) The flats shall not be occupied until the two car parking spaces shown on plan No. 4/0971/87 have been provided and they shall not be used otherwise than for car parking. \* [see (3) attached]

(3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87, for the reasons set out in [the annex to] this notice.<sup>(f)</sup>

**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] <sup>(g)</sup>

within the period of xxxxxxxxxxxxxxxxxxxxxxxxx [days] months from the date on which this notice takes effect [the period specified in respect of each step in that Schedule].<sup>(h)</sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88(10) of the Act, on **25 SEPTEMBER** 1989 <sup>(i)</sup>

Issued **21 AUGUST** 1989

Council's address

Civic Centre  
Marlowes  
Hemel Hempstead  
Hertfordshire HP1 1HH

(Signed) *Keith Hunt*

(Designation) BOROUGH SECRETARY  
(The officer appointed for this purpose)

**CONTINUED OVERLEAF — P.T.O.**

**NOTES TO THE LOCAL PLANNING AUTHORITY**

- (a) This notice is appropriate for breach of a planning condition relating to the carrying out of operations or preventing a change of use of a building to a single dwellinghouse.
- (b) Insert the name of the Council issuing the notice.
- (c) Insert the address or a description of the land to which the notice relates.
- (d) Insert a description of the development for which planning permission was granted, using the words of the grant of permission.
- (e) Set out (in full) only the condition(s) which it is alleged has/have not been complied with.
- (f) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).
- (g) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act. Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.
- (h) If a single period is to be specified by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.
- (i) The date selected must be not less than 28 days after all the copies of the notice have been served (see section 87(5) of the Act).

## SCHEDULE 1

### **Land or premises to which this notice relates**

(address or description)

6 Glenview Gardens  
Hemel Hempstead  
(also known as flats 6a and 6b Glenview Gardens)

shown edged [red] [

] on the attached plan.<sup>(k)</sup>

## SCHEDULE 2

### **Alleged breach of planning control**

Failure to comply with the condition(s) recited overleaf in that<sup>(l)</sup>

~~1. The two car parking spaces shown on Plan No. 4/0071/87 have not been provided.~~

2. No scheme was submitted to the local planning authority prior to commencement of the development, illustrating the means by which sound transmission between ground and first floor and adjoining properties shall be resisted, and no approved scheme was implemented prior to occupation of the flats.

## SCHEDULE 3

### **Steps required to be taken<sup>(m)</sup>**

- ~~(i) Provide the two car parking spaces shown on Plan No. 4/0071/87 and indicated coloured yellow on the plan attached hereto within one month from the date on which this Notice takes effect.~~
- (ii) Submit a satisfactory scheme to the local planning authority for approval illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted within the month from the date on which this Notice takes effect.
- (iii) Implement fully such approved scheme within two months of its approval by the local planning authority.

---

### **NOTES TO THE LOCAL PLANNING AUTHORITY**

(k) See paragraph 31 of DOE Circular 38/81 (Welsh Office 57/81).

(l) State how it is alleged the condition(s) has/have been breached.

(m) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (g) and (h) above.

## EXTRACTS from the TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

### Power to issue enforcement notice

87.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then subject to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

(2) A notice under this section is referred to in this Act as an "enforcement notice".

(3) There is a breach of planning control—

- (a) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required in that behalf in accordance with Part III of the Act of 1962 or Part III of this Act; or
- (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) An enforcement notice which relates to a breach of planning control consisting in—

- (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or
- (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or
- (c) the making without planning permission of a change of use of any building to use as a single dwelling-house; or
- (d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling-house.

may be issued only within the period of four years from the date of the breach.

(5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—

- (a) on the owner and on the occupier of the land to which it relates; and
- (b) on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.

(6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(7) An enforcement notice shall also specify—

- (a) any steps which are required by the authority to be taken in order to remedy the breach;
- (b) any such steps as are referred to in subsection (10) of this section and are required by the authority to be taken.

(8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.

(9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose—

- (a) of restoring the land to its condition before the development took place; or
- (b) of securing compliance with the conditions or limitations subject to which planning permission was granted,

including—

- (i) the demolition or alteration of any buildings or works;
- (ii) the discontinuance of any use of land; and
- (iii) the carrying out on land of any building or other operations.

(10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose—

- (a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
- (b) of removing or alleviating any injury to amenity which has been caused by the development.

(11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(12) The Secretary of State may by regulations direct—

- (a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
- (b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 88 of this Act.

(13) Subject to section 88 of this Act, an enforcement notice shall take effect on a date specified in it.

(14) The local planning authority may withdraw an enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(15) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(16) Where—

- (a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and
- (b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and
- (c) the steps have been taken,

for the purposes of this Act planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

### Appeal against enforcement notice

88.—(1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

- (a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;
- (b) that the matters alleged in the notice do not constitute a breach of planning control;
- (c) that the breach of planning control alleged in the notice has not taken place;
- (d) in the case of a notice which, by virtue of section 87(4) of this Act, may be issued within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;
- (e) in the case of a notice not falling within paragraph (d) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964;
- (f) that copies of the enforcement notice were not served as required by section 87(5) of this Act;
- (g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 87(10) of this Act;
- (h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made by notice in writing to the Secretary of State.

(4) A person who gives notice under subsection (3) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section\*, a statement in writing—

- (a) specifying the grounds on which he is appealing against the enforcement notice; and
- (b) giving such further information as the regulations may prescribe.

(5) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection—

- \* (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;

\*NOTE: The Secretary of State has specified that such a statement must be submitted to him either when the appellant is giving notice of appeal, or within 28 days from the date on which the Secretary of State sends the appellant a notice requiring such a statement to be submitted.

- (b) may require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of appeal under this section as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (6) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (b), (c) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection.
- (9) If—
- (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
  - (b) the appellant does not give information required under paragraph (b) of that subsection to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,
- the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.
- (10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.
- 88A.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.
- (2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- 88B.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—
- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—
- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;
- and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—
- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
  - (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.
- (4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

**Penalties for non-compliance with enforcement notice**

- 89.**—(1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding £2,000 or on conviction on indictment to a fine.
- (2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.
- (3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—
- (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—
- (a) on summary conviction to a fine not exceeding £100 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
  - (b) on conviction on indictment to a fine.
- (5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £2,000, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day on which the use is so continued, or on conviction on indictment to a fine.
- (6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith of such extended period as the local planning authority may allow for compliance with the notice.

**Note.**—Attention is also directed to section 91 relating to the execution and costs of works required by enforcement notice, section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of Enforcement Notices.

\* Para (2)[3]

Before development is commenced a scheme shall be submitted to and approved by the local planning authority illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted. Such scheme as is approved shall be implemented prior to occupation of the flats hereby permitted.

ANNEX TO ENFORCEMENT NOTICE DATED: 21 AUGUST 1989

This information is given in pursuance of the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 and Circular 38/81.

The Council, as the local planning authority, consider it expedient to serve this Notice upon you for the following reason(s):-

To ensure the adequate and satisfactory provision of off-street vehicle parking facilities.

To safeguard the amenity of adjoining properties and obviate nuisance caused to adjoining properties.



## Planning Inspectorate

Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218915/36/38

Switchboard 0272-218811

GTN 1374

1) D.O.  
2) 28.

Mr P F Flanagan  
6A Glenview Gardens  
Boxmoor  
HEMEL HEMPSTEAD  
Herts  
HP1 1TF

PLANNING DEPARTMENT						Council Reference: 4/1592/89E	
DACORUM BOROUGH COUNCIL						Your Reference:	
Ext.						Ack.	OUR Reference: 4/1592/89/A1910/5/P6
C.P.O.	T.O.P.M.	O.P.	D.O.	B.C.	Admin.	Date	
						15 MAY 90	
Received		17 MAY 1990					
Comments							

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
LAND AND BUILDINGS AT 6 GLENVIEW GARDENS, BOXMOOR, HEMEL HEMPSTEAD, HERTFORDSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Dacorum District Council concerning the above mentioned land and buildings. I have considered the written representations made by you, by the Council and by interested persons and I inspected the site on 28 March 1990.

2. a. The date of the notice is 21 August 1989.
- b. The breach of planning control alleged in the notice is failure to comply with condition numbers 2 and 3 subject to which planning permission was granted.
- c. The permission was granted on 26 August 1987 and was for the conversion of a dwelling to form 2 flats.
- d. The conditions which are alleged not to have been complied with are as follows:
- (2) The flats shall not be occupied until the two car parking spaces shown on Plan No 4/0971/87 have been provided and they shall not be used otherwise than for car parking.
- (3) Before development is commenced a scheme shall be submitted to and approved by the local planning authority illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted. Such scheme as is approved shall be implemented prior to occupation of the flats hereby permitted.
- e. It is alleged that the condition has not been complied with in that:
1. The two car parking spaces shown on Plan No 4/0971/87 have not been provided.
2. No scheme was submitted to the local planning authority prior to commencement of the development, illustrating the means by which sound





transmission between ground and first floor and adjoining properties shall be resisted, and no approved scheme was implemented prior to occupation of the flats.

f. The requirements of the notice are:

1. Provide the two car parking spaces shown on Plan No 4/0971/87 and indicated coloured yellow on the plan attached hereto within one month from the date on which this Notice takes effect.
2. Submit a satisfactory scheme to the local planning authority for approval illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted within one month from the date on which this Notice takes effect.
3. Implement fully such approved scheme within two months of its approval by the local planning authority.

h. The appeal was made on the grounds set out in Section 88(2) (b) of the 1971 Act as amended.

3. No 6 Glenview Gardens is one of a terrace of 12 small 2-storey houses facing Glenview Road across a shared access way and front garden land about three quarters of a mile north of Hemel Hempstead station. Several of the houses have been subdivided into 2 units, but Nos 2, 3, 4, 5, 11 and 12 appear to be occupied as single dwelling houses. No 6 Glenview Gardens has been split horizontally, with one flat on each floor. No 6A is the upstairs flat.

4. One of the parking spaces referred to in the notice is to the front of No 9 Glenview Gardens, which has a concrete area across the full plot width along the footway boundary. The other is one of the garages in a courtyard to the rear of the church on the opposite side of Glenview Road.

5. You say that you occupied your flat about a year after it was converted, and that the legal work undertaken at that time showed that parking space had been provided. You argue that as part of the conversion the floor was covered with soundproofing polystyrene and tongue and grooved chipboard, and that no noise problems have arisen. The Council, however, maintains that only 1 space has been provided, not 2 as required by condition No 2, and that no scheme of soundproofing has ever been submitted or approved by the local planning authority.

#### The alleged breach of Condition No 2

6. On my inspection I saw both the parking space outside No 9 Glenview Gardens and the garage indicated on the plan. There is no evidence that either are used other than for car parking. The condition requiring the provision of car parking spaces does not require that they be retained for use by the occupiers of any particular property. It merely requires that they be provided before the premises are occupied. The spaces coloured yellow on the plan attached to the notice exist and in my opinion Condition No 2 has been complied with. Therefore your appeal on ground (b) succeeds in so far as it relates to the alleged breach of that condition.

#### The alleged breach of Condition No 3

7. I accept that some soundproofing works have been carried out to the property. However, it is clear from the representations that whatever the character of the work undertaken no scheme of soundproofing has been submitted to or approved by the

local planning authority following the grant of planning permission as required by that condition. To my mind, therefore, this condition has not been complied with, the breach of planning control alleged in the notice has taken place, and your appeal on ground (b) fails in so far as it relates to Condition No 3.

8. You do not appeal against the notice on ground (a) but when an appeal is made under Section 88 of the Act an application is deemed to have been made for the development to which the notice relates. As the appropriate fee has been paid in accordance with the Fees Regulations I will determine this deemed application in so far as it relates to Condition No 3.

9. From the representations and my observations of the site and its surroundings I consider the main issue in my consideration of the deemed application to be whether continuation of the use without complying with Condition No 3 is likely to lead to unacceptable noise and disturbance to the occupiers of the flat below or the occupiers of Nos 5 and 7 Glenview Gardens.

10. I note some discrepancies between your description of the works that have been carried out to the floor of your flat and those specified on the approved plan. On my inspection it was not possible to see exactly what has been done. There is in the representations no indication of noise transmission problems between your flat and Nos 6B or 7 Glenview Gardens. This may or may not be due to the internal arrangement of those properties or work that has already been carried out, but it seems that no objective assessment has been undertaken.

11. However, the occupiers of No 5 Glenview Gardens report that they are frequently disturbed by noise from your living room (which adjoins their main bedroom) and by noise and vibration from your washing machine. In my experience these are common problems where the living accommodation of one unit is separated from the bedroom of another by a party wall in terraces such as this. I have concluded that continuation of the use without complying with Condition No 3 is likely to lead to unacceptable noise and disturbance to the occupiers of at least one of the adjoining residential units. Therefore I will uphold the notice in so far as it relates to Condition No 3 and I will not grant planning permission on the deemed application. Since your appeal on ground (b) succeeds in so far as it relates to Condition No 2 I will vary the requirements of the notice by deleting the first of them.

12. I have taken into account all the other matters raised in the written representations, including the references to the chronology of the events leading to the issue of the notice and the fact that as far as you were aware when you purchased your flat all the relevant conditions had been complied with, but they do not affect the above conclusions or my decision.

#### FORMAL DECISION

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

1. I allow your appeal in so far as it relates to the alleged failure to comply with Condition No 2 subject to which planning permission was granted and direct that the notice be varied by the deletion of sub-paragraph (i) from both Schedule 2 and Schedule 3;

2. I dismiss your appeal in so far as it relates to the alleged failure to comply with Condition No 3 subject to which planning permission was granted and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act;

3. subject to the variations specified above I uphold the enforcement notice.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir  
Your obedient Servant

John Roberts

J G ROBERTS BSc(Hons) DipTP MRTPI  
Inspector

ENC



# Planning Inspectorate

Department of the Environment

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218915/36/38

Switchboard 0272-218811

GTN 1374

1/100  
2/100

Mr P G C Ellis  
6B Glenview Gardens  
Boxmoor  
HEMEL HEMPSTEAD  
Herts  
HP1 1TF

32953

CHIEF EXECUTIVE OFFICER						PLANNING DEPARTMENT		Council Reference:	
DOULTON BOROUGH COUNCIL						4/1728/89E			
17 MAY 1990						Ack.		Your Reference:	
FILE	FORM	D.P.	D.C.	B.C.	Admin.	File	Our Reference:		
Refer to .....						T/APP/C/89/A1910/6/P6		Date	
Cleared .....						17 MAY 1990			
Comments									

15 MAY 90

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
LAND AND BUILDINGS AT 6 GLENVIEW GARDENS, BOXMOOR, HEMEL HEMPSTEAD, HERTFORDSHIRE

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Dacorum District Council concerning the above mentioned land and buildings. I have considered the written representations made by you, by the Council and by interested persons and I inspected the site on 28 March 1990.

2. a. The date of the notice is 21 August 1989.
- b. The breach of planning control alleged in the notice is failure to comply with condition numbers 2 and 3 subject to which planning permission was granted.
- c. The permission was granted on 26 August 1987 and was for the conversion of a dwelling to form 2 flats.
- d. The conditions which are alleged not to have been complied with are as follows:

(2) The flats shall not be occupied until the two car parking spaces shown on Plan No 4/0971/87 have been provided and they shall not be used otherwise than for car parking.

(3) Before development is commenced a scheme shall be submitted to and approved by the local planning authority illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted. Such scheme as is approved shall be implemented prior to occupation of the flats hereby permitted.

- e. It is alleged that the condition has not been complied with in that:

1. The two car parking spaces shown on Plan No 4/0971/87 have not been provided.

2. No scheme was submitted to the local planning authority prior to commencement of the development, illustrating the means by which sound



transmission between ground and first floor and adjoining properties shall be resisted, and no approved scheme was implemented prior to occupation of the flats.

f. The requirements of the notice are:

1. Provide the two car parking spaces shown on Plan No 4/0971/87 and indicated coloured yellow on the plan attached hereto within one month from the date on which this Notice takes effect.
2. Submit a satisfactory scheme to the local planning authority for approval illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted within one month from the date on which this Notice takes effect.
3. Implement fully such approved scheme within two months of its approval by the local planning authority.

h. The appeal was made on the grounds set out in Section 88(2) (a), (b) and (g) of the 1971 Act as amended.

3. No 6 Glenview Gardens is one of a terrace of 12 small 2-storey houses facing Glenview Road across a shared access way and front garden land about three quarters of a mile north of Hemel Hempstead station. Several of the houses have been subdivided into 2 units, but Nos 2, 3, 4, 5, 11 and 12 appear to be occupied as single dwelling houses. No 6 Glenview Gardens has been split horizontally, with one flat on each floor. No 6B is the ground floor flat.

4. One of the parking spaces referred to in the notice is to the front of No 9 Glenview Gardens, which has a concrete area across the full plot width along the footway boundary. The other is one of the garages in a courtyard to the rear of the church on the opposite side of Glenview Road.

#### The appeal on ground (b)

5. You say that the parking space outside No 9 Glenview Gardens has been provided, and that the developer claims to have installed soundproofing. The Council, however, maintains that only 1 space has been provided, not 2 as required by condition No 2, and that no scheme of soundproofing has ever been submitted or approved by the local planning authority.

6. On my inspection I saw both the parking space outside No 9 Glenview Gardens and the garage indicated on the plan. There is no evidence that either are used other than for car parking. The condition requiring the provision of car parking spaces does not require that they be retained for use by the occupiers of any particular property. It merely requires that they be provided before the premises are occupied. The spaces coloured yellow on the plan attached to the notice exist and in my opinion Condition No 2 has been complied with. Therefore your appeal on ground (b) succeeds in so far as it relates to the alleged breach of that condition.

7. I accept that some soundproofing works have been carried out to the property as claimed by the developer. However, it is clear from the representations that whatever the character of the work undertaken no scheme of soundproofing has been submitted to or approved by the local planning authority following the grant of planning permission as required by that condition. To my mind, therefore, this condition has not been complied with, the breach of planning control alleged in the notice has taken place, and your appeal on ground (b) fails in so far as it relates to Condition No 3.

The appeal on ground (a) and the deemed application

8. You say that you moved into your flat in early 1988 and since that time you have suffered no noise either from No 6A Glenview Gardens or from adjoining properties. Nor are you aware of any complaints alleging noise from your flat. Therefore, you argue, either the soundproofing has been installed or if it has not no further work is necessary. The Council, however, refers to complaints received from the occupier of an adjoining property. Since no scheme has been submitted the Council cannot comment on the effectiveness of what has been done.

9. From the representations and my observations of the site and its surroundings I consider the main issue on the appeal on ground (a) and on the deemed application to be whether continuation of the use without complying with Condition No 3 is likely to lead to unacceptable noise and disturbance to the occupiers of the flat above or the occupiers of Nos 5 and 7 Glenview Gardens.

10. On my inspection it was not possible to see exactly what sound insulation had been fitted. There is in the representations no indication of noise transmission problems between your flat and Nos 6A or 7 Glenview Gardens. This may or may not be due to the internal arrangement of those properties or work that has already been carried out, but it may also be due to your behaviour. It seems that no objective assessment of noise transmission between the units has been undertaken and without such an assessment, which would no doubt have followed submission of details to the Council, it is impossible to say whether the insulation properties of the walls and ceiling of your flat meet acceptable standards.

11. In my experience noise is a frequent problem where the living accommodation of one unit adjoins the bedroom of another in terraces such as this. In my opinion it was reasonable for the Council to impose Condition No 3 on the planning permission because of this potential problem. I have concluded that continuation of the use of No 6 Glenview Gardens as 2 flats without complying with Condition No 3 is likely to lead to unacceptable noise and disturbance to the occupiers of at least one of the adjoining residential units.

12. I have taken into account all the other matters raised in the written representations, including the references to the chronology of the events leading to the issue of the notice, but they do not affect the above conclusions or my decision. Therefore the appeal on ground (a) fails in so far as it relates to the failure to comply with Condition No 3, I will uphold the notice in so far as it relates to that condition and I will not grant planning permission on the deemed application.

The appeal on ground (g)

13. Your appeal on this ground appears to refer wholly to the requirements of the notice with respect to Condition No 2. Since your appeal on ground (b) succeeds in so far as it relates to that condition I will vary the notice by deleting references to that condition.

FORMAL DECISION

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

1. I allow your appeal in so far as it relates to the alleged failure to comply with Condition No 2 subject to which planning permission was granted and direct that the notice be varied by the deletion of sub-paragraph (i) of both Schedule 2 and Schedule 3;
2. I dismiss your appeal in so far as it relates to the alleged failure to comply with Condition No 3 subject to which planning permission was granted and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act;
3. subject to the variations specified above I uphold the enforcement notice.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir  
Your obedient Servant

John Roberts

J G ROBERTS BSc(Hons) DipTP MRTPI  
Inspector

ENC

**IMPORTANT:— THIS COMMUNICATION AFFECTS YOUR PROPERTY**

(b) DACORUM BOROUGH

Council

**TOWN AND COUNTRY PLANNING ACT 1971  
(as amended)****Enforcement Notice<sup>(a)</sup>****Breach of Planning Condition to which the 4 Year Rule applies  
(Operational Development or Preventing Change of Use to Single Dwellinghouse)**(c) 6 GLENVIEW GARDENS (ALSO KNOWN AS 6A AND 6B GLENVIEW GARDENS)  
HEMEL HEMPSTEAD**WHEREAS:**

(1) It appears to the<sup>(b)</sup> DACORUM BOROUGH Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 years before the date of issue of this notice on the land or premises ("the land") described in Schedule 1 below.

(2) The breach of planning control which appears to have taken place consists in the failure to comply with the following condition(s) subject to which planning permission was granted on 26th August 19 87 for<sup>(d)</sup> Conversion of dwelling to form two flats.

~~[that]~~ [those] conditions(s) appearing not to have been complied with in the respect(s) set out in Schedule 2 below:

(e) (2) The flats shall not be occupied until the two car parking spaces shown on plan No. 4/0971/87 have been provided and they shall not be used otherwise than for car parking. \* [see (3) attached]

(3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87, for the reasons set out in [the annex to] this notice.<sup>(f)</sup>

**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] <sup>(g)</sup>

within ~~the period of~~ <sup>[the period specified in respect of each step in that Schedule].<sup>(h)</sup></sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88(10) of the Act, on **25 SEPTEMBER** 1989 <sup>(i)</sup>

Issued **21 AUGUST** 1989

Council's address

Civic Centre  
Marlowes  
Hemel Hempstead  
Hertfordshire HP1 1HH

(Signed)

Keith Hunt

(Designation)

BOROUGH SECRETARY

(The officer appointed for this purpose)

**CONTINUED OVERLEAF — P.T.O.****NOTES TO THE LOCAL PLANNING AUTHORITY**

- (a) This notice is appropriate for breach of a planning condition relating to the carrying out of operations or preventing a change of use of a building to a single dwellinghouse.  
 (b) Insert the name of the Council issuing the notice.  
 (c) Insert the address or a description of the land to which the notice relates.  
 (d) Insert a description of the development for which planning permission was granted, using the words of the grant of permission.  
 (e) Set out (in full) only the condition(s) which it is alleged has/have not been complied with.  
 (f) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).  
 (g) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act. Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.  
 (h) If a single period is to be specified by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.  
 (i) The date selected must be not less than 28 days after all the copies of the notice have been served (see section 87(5) of the Act).



## SCHEDULE 1

### **Land or premises to which this notice relates**

*(address or description)*

6 Glenview Gardens  
Hemel Hempstead  
(also known as flats 6a and 6b Glenview Gardens)

shown edged [red] [ ] on the attached plan.<sup>(k)</sup>

## SCHEDULE 2

### **Alleged breach of planning control**

Failure to comply with the condition(s) recited overleaf in that<sup>(l)</sup>

1. The two car parking spaces shown on Plan No. 4/0971/87 have not been provided.
2. No scheme was submitted to the local planning authority prior to commencement of the development, illustrating the means by which sound transmission between ground and first floor and adjoining properties shall be resisted, and no approved scheme was implemented prior to occupation of the flats.

## SCHEDULE 3

### **Steps required to be taken<sup>(m)</sup>**

- (i) Provide the two car parking spaces shown on Plan No. 4/0971/87 and indicated coloured yellow on the plan attached hereto within one month from the date on which this Notice takes effect.
- (ii) Submit a satisfactory scheme to the local planning authority for approval illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted within the month from the date on which this Notice takes effect.
- (iii) Implement fully such approved scheme within two months of its approval by the local planning authority.

---

### **NOTES TO THE LOCAL PLANNING AUTHORITY**

(k) See paragraph 31 of DOE Circular 38/81 (Welsh Office 57/81).

(l) State how it is alleged the condition(s) has/have been breached.

(m) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (g) and (h) above.

## EXTRACTS from the TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

### Power to issue enforcement notice

87.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then subject to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

(2) A notice under this section is referred to in this Act as an "enforcement notice".

(3) There is a breach of planning control—

(a) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required in that behalf in accordance with Part III of the Act of 1962 or Part III of this Act; or

(b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) An enforcement notice which relates to a breach of planning control consisting in—

(a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or

(b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or

(c) the making without planning permission of a change of use of any building to use as a single dwelling-house; or

(d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling-house.

may be issued only within the period of four years from the date of the breach.

(5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.

(6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(7) An enforcement notice shall also specify—

(a) any steps which are required by the authority to be taken in order to remedy the breach;

(b) any such steps as are referred to in subsection (10) of this section and are required by the authority to be taken.

(8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.

(9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose—

(a) of restoring the land to its condition before the development took place; or

(b) of securing compliance with the conditions or limitations subject to which planning permission was granted,

including—

(i) the demolition or alteration of any buildings or works;

(ii) the discontinuance of any use of land; and

(iii) the carrying out on land of any building or other operations.

(10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose—

(a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or

(b) of removing or alleviating any injury to amenity which has been caused by the development.

(11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(12) The Secretary of State may by regulations direct—

(a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and

(b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 88 of this Act.

(13) Subject to section 88 of this Act, an enforcement notice shall take effect on a date specified in it.

(14) The local planning authority may withdraw an enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(15) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(16) Where—

(a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and

(b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and

(c) the steps have been taken,

for the purposes of this Act planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

### Appeal against enforcement notice

88.—(1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

(a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;

(b) that the matters alleged in the notice do not constitute a breach of planning control;

(c) that the breach of planning control alleged in the notice has not taken place;

(d) in the case of a notice which, by virtue of section 87(4) of this Act, may be issued within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;

(e) in the case of a notice not falling within paragraph (d) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964;

(f) that copies of the enforcement notice were not served as required by section 87(5) of this Act;

(g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 87(10) of this Act;

(h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made by notice in writing to the Secretary of State.

(4) A person who gives notice under subsection (3) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section\*, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as the regulations may prescribe.

(5) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection—

\* (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;

\*NOTE: The Secretary of State has specified that such a statement must be submitted to him either when the appellant is giving notice of appeal, or within 28 days from the date on which the Secretary of State sends the appellant a notice requiring such a statement to be submitted.

- (b) may require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of appeal under this section as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (6) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (b), (c) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection.
- (9) If—
- (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
  - (b) the appellant does not give information required under paragraph (b) of that subsection to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,
- the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.
- (10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.
- 88A.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.
- (2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.
- (3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
- 88B.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—
- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—
- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;
- and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.
- (3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—
- (a) any planning permission granted under that subsection shall be treated as granted on that application;
  - (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
  - (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.
- (4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

#### **Penalties for non-compliance with enforcement notice**

**89.**—(1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding **£2,000** or on conviction on indictment to a fine.

(2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.

(3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—

- (a) the subsequent owner may be convicted of the offence; and
- (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.

(4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—

- (a) on summary conviction to a fine not exceeding **£100** for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
- (b) on conviction on indictment to a fine.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding **£2,000**, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding **£100** for each day on which the use is so continued, or on conviction on indictment to a fine.

(6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith of such extended period as the local planning authority may allow for compliance with the notice.

**Note.**—Attention is also directed to section 91 relating to the execution and costs of works required by enforcement notice, section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of Enforcement Notices.

\* Para (2)[3]

Before development is commenced a scheme shall be submitted to and approved by the local planning authority illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted. Such scheme as is approved shall be implemented prior to occupation of the flats hereby permitted.

ANNEX TO ENFORCEMENT NOTICE DATED: 21 AUGUST 1989

This information is given in pursuance of the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 and Circular 38/81.

The Council, as the local planning authority, consider it expedient to serve this Notice upon you for the following reason(s):-

To ensure the adequate and satisfactory provision of off-street vehicle parking facilities.

To safeguard the amenity of adjoining properties and obviate nuisance caused to adjoining properties.

AB

D.C.7A

Town Planning  
Ref. No.

4/0859/90

TOWN & COUNTRY PLANNING ACT 1971



**DACORUM BOROUGH COUNCIL**

To: Mr P Ellis  
6B Glenview Gardens  
Hemel Hempstead  
Herts  
HP1 1TF

Conversion of dwelling to form two flats -  
Submission of details of sound insulation pursuant  
to P/P 4/0971/87

6B Glenview Gardens  
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 gives approval to the details which were reserved for subsequent approval in planning permission no 4/0971/87

granted on 26 August 1987 at the above-mentioned  
location in accordance with the details submitted by you, with your  
application dated 11 June 1990.

Dated

17th

day of

September

1990

Signed

A handwritten signature in dark ink, appearing to read "Colin Barnard".

Designation DIRECTOR OF PLANNING

NOTE: This is not a separate planning permission, but must be read in conjunction with any conditions attached to the permission indicated above.



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/1505/90

S.A.Keene  
9 The Crescent  
Abbots Langley  
Watford  
HERTS

Pictons  
24 The Avenue  
Watford  
Herts.  
WD1 3NS

DEVELOPMENT ADDRESS AND DESCRIPTION  
=====

6a Glenview Gardens, Hemel Hempstead, Herts

SUBMISSION OF DETAILS OF SOUNDPROOFING PURSUANT TO P/P 4/0971/87 (CONV.DWELLING  
TO TWO FLATS)

Your application for *the approval of details or reserved matters* dated 16.10.1990  
and received on 17.10.1990 has been **GRANTED**, subject to any conditions set out  
on the attached sheet(s).

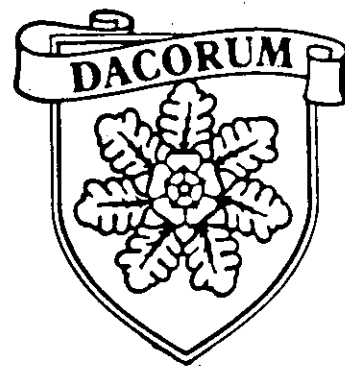
Director of Planning.

Date of Decision: 11.02.1991

(encs. - Conditions and Notes).

CONDITIONS APPLICABLE  
TO APPLICATION: 4/1505/90

Date of Decision: 11.02.1991



The sound-proofing scheme hereby approved shall be fully implemented within two months of the date of this Decision Notice.

**REASON:**

To ensure an adequate standard of sound attenuation.

Council

**TOWN AND COUNTRY PLANNING ACT 1971**  
(as amended)

# Enforcement Notice<sup>(a)</sup>

**Breach of Planning Condition to which the 4 Year Rule applies  
(Operational Development or Preventing Change of Use to Single Dwellinghouse)**

**WHEREAS:**

(1) It appears to the<sup>(b)</sup> DACORUM BOROUGH Council ("the Council"), being the local planning authority for the purposes of section 87 of the Town and Country Planning Act 1971 ("the Act") in this matter, that there has been a breach of planning control within the period of 4 years before the date of issue of this notice on the land or premises ("the land") described in Schedule 1 below.

(2) The breach of planning control which appears to have taken place consists in the failure to comply with the following condition(s) subject to which planning permission was granted on 26th August 19 87 for<sup>(d)</sup> Conversion of dwelling to form two flats.

~~that~~ [those] conditions(s) appearing not to have been complied with in the respect(s) set out in Schedule 2 below:

(c) (2) The flats shall not be occupied until the two car parking spaces shown on plan No. 4/0971/87 have been provided and they shall not be used otherwise than for car parking. \* [see (3) attached]

(3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this enforcement notice, in exercise of their powers contained in the said section 87, for the reasons set out in [the annex to] this notice.<sup>(1)</sup>

**NOTICE IS HEREBY GIVEN** that the Council require that the steps specified in Schedule 3 below be taken [in order to remedy the breach] [(g)]

within [the period of \_\_\_\_\_ [days] [months] from the date on which this notice takes effect] [the period specified in respect of each step in that Schedule].<sup>(h)</sup>

**THIS NOTICE SHALL TAKE EFFECT**, subject to the provisions of section 88(10) of the Act, on **25 SEPTEMBER** 1989 .(6)

Issued 21 AUGUST 1989

*Council's address*

Civic Centre  
Marlowes.  
Hemel Hempstead  
Hertfordshire HP1 1HH

(Signed) Keith Hunt

(Designation).....BOROUGH SECRETARY.....  
(The officer appointed for this purpose)

**CONTINUED OVERLEAF — P.T.O.**

## NOTES TO THE LOCAL PLANNING AUTHORITY

- NOTES TO THE LOCAL PLANNING AUTHORITY**
- (a) This notice is appropriate for breach of a planning condition relating to the carrying out of operations or preventing a change of use of a building to a single dwellinghouse.
- (b) Insert the name of the Council issuing the notice.
- (c) Insert the address or a description of the land to which the notice relates.
- (d) Insert a description of the development for which planning permission was granted, using the words of the grant of permission.
- (e) Set out (in full) only the condition(s) which it is alleged has/have not been complied with.
- (f) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).
- (g) Or, as the case may be, having regard to section 87(7)(a) and (b) of the Act. Where steps are required to be taken for more than one of the purposes provided for in section 87, the purpose for which each step is required should be specified in Schedule 3. Steps may be required as alternatives.
- (h) If a single period is to be specified by which all the required steps must be taken, insert it here. But if a series of steps is required to be taken, with a different compliance period for each step, the appropriate period should be clearly stated against each step (in columns if more suitable) in Schedule 3.
- (i) The date selected must be not less than 28 days after all the copies of the notice have been served (see section 87(5) of the Act).



## SCHEDULE 1

### **Land or premises to which this notice relates**

*(address or description)*

6 Glenview Gardens  
Hemel Hempstead  
(also known as flats 6a and 6b Glenview Gardens)

shown edged [red] [ ] on the attached plan.<sup>(k)</sup>

## SCHEDULE 2

### **Alleged breach of planning control**

Failure to comply with the condition(s) recited overleaf in that<sup>(l)</sup>

1. The two car parking spaces shown on Plan No. 4/0971/87 have not been provided.
2. No scheme was submitted to the local planning authority prior to commencement of the development, illustrating the means by which sound transmission between ground and first floor and adjoining properties shall be resisted, and no approved scheme was implemented prior to occupation of the flats.

## SCHEDULE 3

### **Steps required to be taken<sup>(m)</sup>**

- (i) Provide the two car parking spaces shown on Plan No. 4/0971/87 and indicated coloured yellow on the plan attached hereto within one month from the date on which this Notice takes effect.
- (ii) Submit a satisfactory scheme to the local planning authority for approval illustrating the means by which sound transmission between ground and first floors and adjoining properties shall be resisted within the month from the date on which this Notice takes effect.
- (iii) Implement fully such approved scheme within two months of its approval by the local planning authority.

---

### **NOTES TO THE LOCAL PLANNING AUTHORITY**

(k) See paragraph 31 of DOE Circular 38/81 (Welsh Office 57/81).

(l) State how it is alleged the condition(s) has/have been breached.

(m) Specify the actual steps to be taken with, if appropriate, the compliance period for each step. The requirements should be clear and precise. See also notes (g) and (h) above.

## EXTRACTS from the TOWN AND COUNTRY PLANNING ACT 1971 (as amended)

### Power to issue enforcement notice

87.—(1) Where it appears to the local planning authority that there has been a breach of planning control after the end of 1963, then subject to the following provisions of this section, the authority, if they consider it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with subsection (5) of this section.

(2) A notice under this section is referred to in this Act as an "enforcement notice".

(3) There is a breach of planning control—

- (a) if development has been carried out, whether before or after the commencement of this Act, without the grant of the planning permission required in that behalf in accordance with Part III of the Act of 1962 or Part III of this Act; or
- (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) An enforcement notice which relates to a breach of planning control consisting in—

- (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land; or
- (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or
- (c) the making without planning permission of a change of use of any building to use as a single dwelling-house; or
- (d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling-house.

may be issued only within the period of four years from the date of the breach.

(5) A copy of an enforcement notice shall be served, not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in that land, being an interest which in the opinion of the authority is materially affected by the notice.

(6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(7) An enforcement notice shall also specify—

- (a) any steps which are required by the authority to be taken in order to remedy the breach;
- (b) any such steps as are referred to in subsection (10) of this section and are required by the authority to be taken.

(8) An enforcement notice shall specify the period within which any such step as is mentioned in subsection (7) of this section is to be taken and may specify different periods for the taking of different steps.

(9) In this section "steps to be taken in order to remedy the breach" means (according to the particular circumstances of the breach) steps for the purpose—

(a) of restoring the land to its condition before the development took place; or

(b) of securing compliance with the conditions or limitations subject to which planning permission was granted, including—

- (i) the demolition or alteration of any buildings or works;
- (ii) the discontinuance of any use of land; and
- (iii) the carrying out on land of any building or other operations.

(10) The steps mentioned in subsection (7)(b) of this section are steps for the purpose—

(a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or

(b) of removing or alleviating any injury to amenity which has been caused by the development.

(11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(12) The Secretary of State may by regulations direct—

- (a) that enforcement notices shall specify matters additional to those which they are required to specify by this section; and
- (b) that every copy of an enforcement notice served under this section shall be accompanied by an explanatory note giving such information as may be specified in the regulations with regard to the right of appeal conferred by section 88 of this Act.

(13) Subject to section 88 of this Act, an enforcement notice shall take effect on a date specified in it.

(14) The local planning authority may withdraw an enforcement notice (without prejudice to their power to issue another) at any time before it takes effect.

(15) If they do so, they shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(16) Where—

(a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and

(b) the notice has required the taking of steps for a purpose mentioned in subsection (10)(b) of this section; and

(c) the steps have been taken,

for the purposes of this Act planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the local planning authority.

### Appeal against enforcement notice

88.—(1) A person having an interest in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

(a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;

(b) that the matters alleged in the notice do not constitute a breach of planning control;

(c) that the breach of planning control alleged in the notice has not taken place;

(d) in the case of a notice which, by virtue of section 87(4) of this Act, may be issued within the period of four years from the date of the breach of planning control to which the notice relates, that that period had elapsed at the date when the notice was issued;

(e) in the case of a notice not falling within paragraph (d) of this subsection, that the breach of planning control alleged by the notice occurred before the beginning of 1964;

(f) that copies of the enforcement notice were not served as required by section 87(5) of this Act;

(g) that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or to achieve a purpose specified in section 87(10) of this Act;

(h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made by notice in writing to the Secretary of State.

(4) A person who gives notice under subsection (3) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed by regulations under subsection (5) of this section\*, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as the regulations may prescribe.

(5) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under this section, and in particular, but without prejudice to the generality of this subsection—

- \* (a) may prescribe the time within which an appellant is to submit a statement under subsection (4) of this section and the matters on which information is to be given in such a statement;

**\*NOTE: The Secretary of State has specified that such a statement must be submitted to him either when the appellant is giving notice of appeal, or within 28 days from the date on which the Secretary of State sends the appellant a notice requiring such a statement to be submitted.**

- (b) may require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
  - (c) may specify the matters to be included in such a statement;
  - (d) may require the authority or the appellant to give such notice of appeal under this section as may be prescribed, being notice which in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated;
  - (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.
- (6) The Secretary of State—
- (a) may dismiss an appeal if the appellant fails to comply with subsection (4) of this section within the time prescribed by regulations under subsection (5); and
  - (b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (b), (c) or (e) of subsection (5) of this section within the period prescribed by the regulations.
- (7) Subject to subsection (8) below, the Secretary of State shall, if either the appellant or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(8) The Secretary of State shall not be required to afford such an opportunity if he proposes to dismiss an appeal under paragraph (a) of subsection (6) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection.

- (9) If—
- (a) a statement under subsection (4) of this section specifies more than one ground on which the appellant is appealing against an enforcement notice; but
  - (b) the appellant does not give information required under paragraph (b) of that subsection to each of the specified grounds within the time prescribed by regulations under subsection (5) of this section,
- the Secretary of State may determine the appeal without considering any of the specified grounds as to which the appellant has failed to give such information within that time.

(10) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(11) Schedule 9 to this Act applies to appeals under this section, including appeals under this section as applied by regulations under any other provision of this Act.

**88A.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the enforcement notice or for varying its terms.

(2) On such an appeal the Secretary of State may correct any informality, defect or error in the enforcement notice, or give directions for varying its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or to the local planning authority.

(3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

**88B.**—(1) On the determination of an appeal under section 88 of this Act, the Secretary of State may—

- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
  - (b) discharge any condition or limitation subject to which planning permission was granted;
  - (c) determine any purpose for which the land may, in the circumstances obtaining at the time of the determination, be lawfully used having regard to any past use of it and to any planning permission relating to it.
- (2) In considering whether to grant planning permission under subsection (1) of this section, the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted by him under that subsection may—
- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
  - (b) be granted subject to such conditions as the Secretary of State thinks fit;
- and where under that subsection he discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(3) Where an appeal against an enforcement notice is brought under section 88 of this Act, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the Secretary of State of his powers under subsection (1) of this section—

- (a) any planning permission granted under that subsection shall be treated as granted on that application;
- (b) in relation to a grant of planning permission or a determination under that subsection, the Secretary of State's decision shall be final; and
- (c) for the purposes of section 34 of this Act, the decision shall be treated as having been given by the Secretary of State in dealing with an application for planning permission made to the local planning authority.

(4) On an appeal under section 88 of this Act against an enforcement notice relating to anything done in contravention of a condition to which section 71 of this Act applies, the Secretary of State shall not be required to entertain the appeal in so far as the appellant claims that planning permission free from that condition ought to be granted.

#### **Penalties for non-compliance with enforcement notice**

**89.**—(1) Subject to the provisions of this section, where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice relates, then, if any steps required by the notice to be taken (other than the discontinuance of a use of land) have not been taken within the period allowed for compliance with the notice, that person shall be liable on summary conviction to a fine not exceeding £2,000 or on conviction on indictment to a fine.

(2) If a person against whom proceedings are brought under subsection (1) of this section has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the land, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the land (in this section referred to as "the subsequent owner") brought before the court in the proceedings.

(3) If, after it has been proved that any steps required by the enforcement notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps were attributable, in whole or in part, to the default of the subsequent owner—

- (a) the subsequent owner may be convicted of the offence; and
  - (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the enforcement notice, shall be acquitted of the offence.
- (4) If, after a person has been convicted under the preceding provisions of this section, he does not as soon as practicable do everything in his power to secure compliance with the enforcement notice, he shall be guilty of a further offence and liable—
- (a) on summary conviction to a fine not exceeding £100 for each day following his first conviction on which any of the requirements of the enforcement notice (other than the discontinuance of the use of land) remain unfulfilled; or
  - (b) on conviction on indictment to a fine.

(5) Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions or limitations are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if any person uses the land or causes or permits it to be used, or carries out those operations or causes or permits them to be carried out, in contravention of the notice, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £2,000, or on conviction on indictment to a fine; and if the use is continued after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £100 for each day on which the use is so continued, or on conviction on indictment to a fine.

(6) Any reference to this section to the period allowed for compliance with an enforcement notice is a reference to the period specified in the notice for compliance therewith of such extended period as the local planning authority may allow for compliance with the notice.

**Note.**—Attention is also directed to section 91 relating to the execution and costs of works required by enforcement notice, section 110 which contains supplementary provisions as to appeals to the Secretary of State and section 243 relating to the validity of Enforcement Notices.