



**Planning Inspectorate
Department of the Environment**

Room 1121 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218915
Switchboard 0272-218811
GTN 1374

**CHIEF EXECUTIVE
OFFICER**

2 DEC 1988

File Ref.
Refer to *0202/12*
Cleared

Mr and Mrs H-P Meyer
58 Upper Hall Park
BERKHAMSTED
Herts.
HP4 2NR

Council Reference: **27474**

4/1028/88E GPB/MB/PL.1

Our Reference:
T/APP/C/88/A1910/06&08/PL

Date: **29 NOV 88**

-2 DEC 1988

Sir and Madam

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AND BUILDINGS AT 58 UPPER HALL PARK, BERKHAMSTED, HERTS.

1. As you know, I have been appointed by the Secretary of State for the Environment to determine your appeals against an enforcement notice issued by the Dacorum Borough Council concerning the above land and buildings. I have considered the written representations made by you and by the Council and also those made by interested persons. I inspected the site on 14 November 1988.
2.
 - a. The notice was issued on 11 April 1988.
 - b. The breach of planning control alleged in the notice is the change of use from dwellinghouse to mixed use dwellinghouse, office and business storage.
 - c. The requirements of the notice are to cease the office and business storage uses of the premises.
 - d. The period for compliance with the notice is 6 months.
 - e. The appeals were made initially on the ground set out in Section 88(2)(g) of the 1971 Act as amended. Ground (a) was subsequently added by your letter of 20 June 1988.
3. The appeal site comprises a 3 bedroom detached house set in a fairly substantial plot on the south side of Upper Hall Park, at the southern extremity of Berkhamsted. The dwelling is sited back from and at a higher level than the road. A single garage set into the rising ground is located to the front of the dwelling adjacent to the boundary with No. 60. Upper Hall Park forms one of several roads of attractive, detached houses located within spacious plots which give this area a pleasant suburban and wholly domestic appearance.
4. On the planning merits of the appeals on ground (a) from the written representations and my inspection of the site and its surroundings I have formed the view that the principal issues are whether the use of the premises as alleged materially harms the amenities of the occupiers of surrounding dwellings or the character of the locality.

5. Since the issue of the notice the nature of your business has undergone substantial change. You have obtained alternative accommodation for the business storage and your employees, who have reduced in number from 20 to 6, are now instructed in the field and not at the appeal site. I observed that the garage is no longer in use for the storage of materials other than in association with the normal domestic use of the house. Whilst there is some storage within a cupboard in the dining room of the house of papers associated with the administration of the business this is shared with the storage of household items and occupies a minimal area in relation to the overall dwelling. Accordingly, the changes in the operation of the business have enabled you to comply with that part of the notice requiring the cessation of the use for business storage. Nevertheless compliance with the notice does not discharge the notice and I shall consider, therefore, the effect of that use on the neighbours and the locality.

6. The use as it operated at the time the notice was issued involved a substantial number of activities associated with the operation of a shopfitting business wholly from the appeal site. The garage was used for the storage of materials and company vehicles and employees called at the site, from where they received their instructions. In my view such a use would have caused noise and disturbance to the neighbours and would have given the site something of a commercial character wholly out of keeping with this attractive residential locality. Accordingly, it was appropriate, in my view, for the council to seek to remove this activity from this area. The appeals on ground (a) in respect of the use for business storage, therefore, fail.

7. As to the office use, this involves the use of 2 desks in the dining room together with a telephone and a typewriter. The administration of the business is undertaken wholly by you and your wife and there are no callers to the site. I found the extent of the office use relative to the domestic use of the house to be minimal. Whilst I share the Council's concern that commercial uses should not be permitted to intrude into this pleasant residential environment it is my opinion that the nature of the business as now conducted at your house has a negligible effect on the neighbours and the character of the area. Accordingly, the appeals on ground (a) in respect of the use for office purposes succeed.

8. The Council have suggested a number of conditions which they would wish to see imposed in the event of planning permission being granted. In view of my conclusions on the nature of the business as it is now run, I consider it is necessary to make the use personal to you and to limit it to an office use operated as at present. However, I see no reason to limit the period of the use to other than your occupation of the dwelling, as the controls I intend to impose will provide adequate protection against the use having any material effect on the neighbours or the locality.

9. In view of the success of the appeals on ground (a) in respect of that part of the use to which your appeals on ground (g) are directed, I do not propose to deal with the appeals on ground (g).

10. I have taken into account all other matters raised in the written representations but find nothing of such weight as to override the considerations which have led to my conclusions.

FORMAL DECISION

11. For the above reasons, and in exercise of the powers transferred to me, I hereby;-

a. allow these appeals insofar as they relate to the office use and grant planning permission for the continued use of 58 Upper Hall Park, Berkhamsted, Herts as a dwellinghouse and office subject to the following conditions;-

1. The office use hereby permitted shall be carried on only by Hans-Peter Meyer and Moira Ann Meyer and shall be for a limited period being the period during which the land and premises are occupied by Hans-Peter Meyer and Moira Ann Meyer.

2. When the land and premises cease to be occupied by Hans-Peter Meyer and Moira Ann Meyer the office use hereby permitted shall cease and all materials and equipment brought onto the premises for use solely in connection with the office use shall be removed.

3. The office use hereby permitted, including all ancillary storage and equipment, shall be carried on in only one room of the dwellinghouse.

b. dismiss these appeals and uphold the notice insofar as it relates to the use of the land and premises for business storage and refuse to grant planning permission on the application deemed to have been made for business storage use under Section 88 B(3) of the 1971 Act, as amended.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir and Madam
Your obedient Servant



LEONORA J ROZEE BA(Hons)MRTPI
Inspector

ENC

IMPORTANT:— THIS COMMUNICATION AFFECTS YOUR PROPERTY

(a)

DACORUM BOROUGH

Council

**TOWN AND COUNTRY PLANNING ACT 1971
(as amended)****Enforcement Notice
Material Change of Use**

(b) 58 Upper Hall Park Berkhamsted Hertfordshire

WHEREAS:

(1) It appears to the^(a) *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 after the end of 1963^(c)

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 carrying out of development by the making of the material change in the use of the land described in Schedule 2 below, without the grant of planning permission required for that development.

(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.^(d)

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

within [the period of *six* ~~xxxxxx~~ ^(f) *days* [months] from the date on which this notice takes effect] [the period specified in respect of each step in that schedule].^(f)

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88 (10) of the Act, on *11th May* 1988 ^(g)

Issued *11th April* 1988

Council's address —

Civic Centre

Marlowes

Hemel Hempstead, Herts 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) Insert the name of the Council issuing the notice.

(b) Insert the address or a description of the land to which the notice relates.

(c) Where section 87(4)(c) of the Act applies insert "and within the period of 4 years before the date of issue of this notice."

(d) See paragraph 29 of DOE Circular 38/81 (Welsh Office Circular 57/81).

(e) 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.

(f) 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.

(g) The date selected must be not less than 28 clear days after all the copies of the notice will have been served (see section 87(5) of the Act).

SCHEDULE 1

Land or premises to which this notice relates
(Address or description)

58 Upper Hall Park
Berkhamsted
Hertfordshire

shown edged [red] [] on the attached plan.^(h)

SCHEDULE 2

Alleged breach of planning control
(description of the material change of use alleged to have been made) (j)

Change of use from dwellinghouse to mixed use dwellinghouse,
office and business storage.

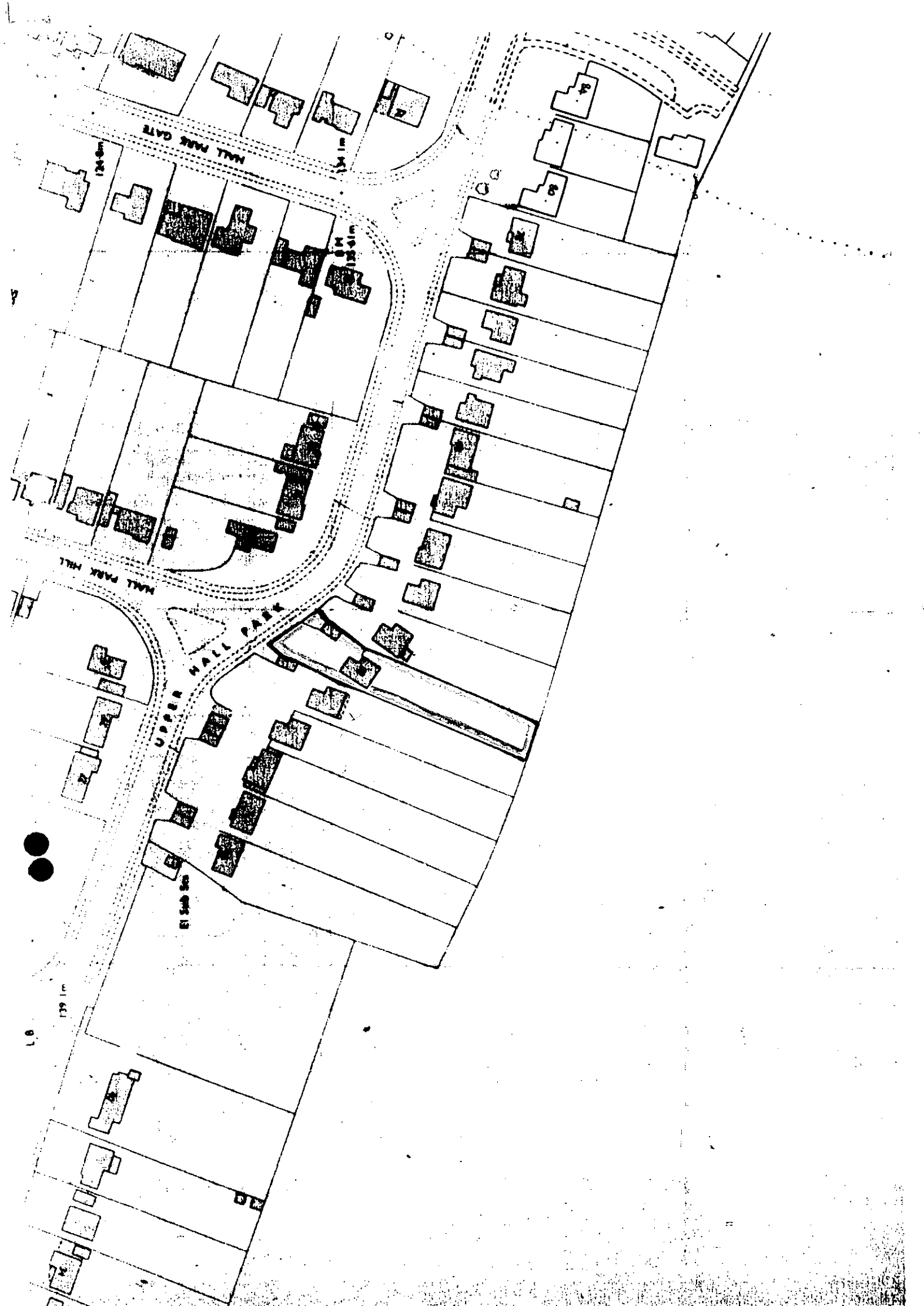
SCHEDULE 3

Steps required to be taken.^(k)
(i)

Cease the office and business storage uses of the premises.

NOTES TO THE LOCAL PLANNING AUTHORITY

- (h) See paragraph 31 of DOE Circular 38/81 (Welsh Office Circular 57/81).
- (j) If the new use is a mixed use, include all the uses comprising that mixed use.
- (k) 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 (e) and (f) overleaf.



ANNEX TO ENFORCEMENT NOTICE DATED:-

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 reasons(s):-

The development has had a serious detrimental effect on the amenities enjoyed by occupants of adjacent dwellings.

Town and Country Planning Act 1971 (as amended)

For DOE use only

Enforcement notice appeal to the Secretary of State for the Environment

**IMPORTANT:—DO NOT DELAY. YOUR COMPLETED APPEAL FORM
MUST BE RECEIVED IN THE DEPARTMENT BEFORE THE DATE ON
WHICH THE COUNCIL HAVE STATED THAT THE ENFORCEMENT
NOTICE SHALL TAKE EFFECT. YOU ARE STRONGLY ADVISED TO
SEND THE COMPLETED FORM WELL BEFORE THIS DATE.**

Ref No. APP/

— before you complete this form, please read the
explanatory booklet "Enforcement Notice Appeals — A Guide to
Procedure". If you do not have a copy, the Council can provide one.

Appellant's details (Please complete in block letters)

- 1(a) Full name & address. . . HANS-PETER & MOIRA ANN MEYER . . .
 58 UPPER HALL PARK, BERKHAMSTED, HERTS. HP4 2NR . . .
 Postcode . . HP4 2NR . . .
 (b) Telephone number. . . 04427 73041 Reference number
 (c) Name and address of any agent or professional representative to whom letters should be sent
 Postcode
 (d) Telephone number. Reference number

Appeal and grounds (Please appeal on a separate form for each enforcement notice)

2. I appeal, (on the appellant's behalf) * under section 88 of the Town & Country Planning Act 1971, (as amended)
 against the enforcement notice dated 11th April, 1988 issued by Dacorum Borough
 Council relating to land at 58 Upper Hall Park, Berkhamsted and I attach a copy of the relevant enforcement notice to
 this form.

Signed. . . H. Meyer . . . 6 Moira A. Meyer Date 5th May, 1988

I appeal on the ground(s) in section 88(2) of the 1971 Act indicated by a cross (X) in the appropriate box below:—

- Ground (a) that planning permission ought to be granted for the
 development to which the enforcement 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;
☐
 Ground (b) that the matters alleged in the enforcement notice do not
 constitute a breach of planning control;
☐
 †Ground (c) that the breach of planning control alleged in the
 enforcement notice has not taken place;
☐
 Ground (d) in the case of an enforcement notice which, by virtue of
 section 87(4) of the 1971 Act may be issued only within the
 period of 4 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;
☐

- Ground (e) in the case of an enforcement notice not falling within
 ground (d) aside, that the breach of planning control
 alleged by the notice occurred before the beginning of
 1964;
☐
 Ground (f) that copies of the enforcement notice were not served
 as required by section 87(5) of the 1971 Act;
☐
 Ground (g) that the steps required by the enforcement notice to
 be taken exceed what is necessary to remedy any breach of
 planning control, or to achieve a purpose specified by the
 Council under section 97(10) of the 1971 Act;
☒
 Ground (h) that the period specified in the enforcement notice as
 the period within which any required step is to be taken
 falls short of what should reasonably be allowed.
☐

My statement of facts, in support of each of my grounds of appeal, as indicated above, is given overleaf in Item 6.
 (Failure to provide facts may result in the dismissal of the appeal or the refusal to consider a ground of appeal without
 supporting facts).

† please note that the only purpose of an appeal on Ground (C) is to maintain that the Council's allegation in the
 enforcement notice has not occurred, as a matter of fact.

*delete as appropriate

Other appeals

3(a) Have you made any other appeals to the Secretary of State involving this or any related land? *(Please indicate by a cross (X) in the appropriate box).*

Yes

No

X

(b) If 'Yes', please complete the following table.

Type of appeal	Date of appeal	DOE reference No (if known)

Written representations

4. Do you agree to have your appeal dealt with on the basis of written statements by the parties and an inspection of the site by an officer of the Department? *(Please indicate by a cross (X) in the appropriate box).*

Yes

X

No

(Although you may agree to the appeal being dealt with by written representations, the Secretary of State may find it essential to hold a Public Local Inquiry).

Checking and despatching

5(a) Before you send this appeal to the Department, please check that you have:—

- (i) completed the whole form, including the statement of facts which is Item 6 on page 3, and
- (ii) enclosed a copy of the enforcement notice.

(b) Now send this appeal to the following address by first class post.

Department of the Environment
(PLUP2)
PO Box 326
Bristol BS99 7XF

NB This appeal must not be sent to the local Council. The appeal must arrive in the Department not later than the day before the date, stated by the Council, for the enforcement notice to take effect. If the enforcement notice takes effect on a Saturday, Sunday or Monday, the appeal must arrive in the Department not later than the preceding Friday. If the enforcement notice takes effect on a Bank Holiday the appeal must arrive on the last working day before the Holiday.
Use of "recorded delivery" by the Post Office: if you wish to have proof that your appeal has been received by the Department, you should send it by Post Office "recorded delivery", for which an extra charge is payable. Most "recorded delivery" postal items require extra time for postal transmission and you should allow for this possibility if you send your appeal by this postal service.

Statement of facts

6. Please state here the facts in support of each one of the eight grounds of appeal (a) to (h) you have marked with an "X" in Item 2 on page 1 of this form. For each ground of appeal, please state the facts relevant to that ground.

We accept that we must cease business storage use of the premises but appeal against ceasing the office at this address because of the following:

Obtaining storage/small office premises will automatically eliminate the need for employees to call at this address. (Existing staff will receive both verbal and written instructions informing them of the new premises and company policy)

With regard to any delivery of small materials, which, incidentally has never exceeded four per year, suppliers will also be notified of the change.

Implementing the above, would in effect mean that 58 Upper Hall Park, apart from dwelling use, would only be required to serve as a part-time office/administration point for the occupants (HP & MA Meyer) for the making and receiving of telephone calls, writing and receiving mail. Should we be forced to cease even these activities from here, the company would face even higher costs ie full time staffing of other office. (At present the office is managed by Moira Meyer who would not at this stage be in a position to work full-time at other premises)

Please note that a further increase to costs, in addition to those of renting premises would put a severe and possibly unbearable strain on the company's finances at this time. We must point out that we are a small business with teams of shopfitters providing a nationwide service which involves employees being away from base for weeks at a time. It would be an unrealistic burden for us to employ "outside" office staff for what is a very quiet, low profile office.

I now write with reference to the annex to the enforcement notice and the reason given. I should have been deeply concerned had I felt this to have been the case. Our neighbours at No. 56 have assured us that at no time, past or present, have they suffered any detrimental effect. The neighbours at No. 60 have in fact benefitted from Moira Meyer's "permanent" presence in No. 58 in having a reliable keyholder for their property. (I believe they were advised to have one in case of emergencies)

I trust that you will consider this appeal and await hearing from you. I would also very much appreciate if you would please elaborate on the annex so that we may know specifically what is deemed to have had a serious detrimental effect on the amenities . I must stress that due to the nature of the company and our customers, all work is carried out on site ie showrooms, stores etc. and at no time has or could these premises (58 Upper Hall Park) been used for production/manufacturing.

Please continue overleaf

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(a)

DACORUM BOROUGH

Council

TOWN AND COUNTRY PLANNING ACT 1971

(as amended)

Enforcement Notice

Material Change of Use

(b).....58 Upper Hall Park Berkhamsted Hertfordshire

WHEREAS:

(1) It appears to the^(a) 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 after the end of 1963^(c)

on the land or premises ("the land") described in Schedule 1 below.

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(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.^(d)

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

within [the period of six ~~xxxxxx~~ [days] [months] from the date on which this notice takes effect] [the period specified in respect of each step in that schedule].^(f)

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of section 88 (10) of the Act, on 11th May 1988.^(g)

Issued 11th April 1988.

Council's address —

Civic Centre

Marlowes

Hemel Hempstead, Herts 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**

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(Address or description)

58 Upper Hall Park
Berkhamsted
Hertfordshire

shown edged [red] [] on the attached plan.^(h)

SCHEDULE 2

Alleged breach of planning control
(description of the material change of use alleged to have been made) (j)

Change of use from dwellinghouse to mixed use dwellinghouse,
office and business storage.

SCHEDULE 3

Steps required to be taken.^(k)
(i)

Cease the office and business storage uses of the premises.

NOTES TO THE LOCAL PLANNING AUTHORITY

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

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The Council, as the Local Planning Authority, consider it expedient to serve this Notice upon you for the following reasons(s):-

The development has had a serious detrimental effect on the amenities enjoyed by occupants of adjacent dwellings.