



# Appeal Decision

## PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL

Site visit held on 08 November 1999 C B C S S FILE

by Neil Roberts 08 NOV 1999

an Inspector appointed by the Secretary of State for the  
Environment, Transport and the Regions

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8 NOV 1999

T/APP/A1910/C/99/1023921/P6

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice.
- The appeal is brought by Mr J Young against Dacorum Borough Council.
- The site is located on land at the rear of 8-14 Malting Lane, Aldbury.
- The Council's reference is 4/1050/99ENA.
- The notice was issued on 30 April 1999.
- The breaches of planning control as alleged in the notice are without planning permission the alteration of the building on the land edged red on the plan attached to the notice to enable its use for residential purposes, and the change of use of that building from use as a garage and store to use as a separate dwellinghouse.
- The requirements of the notice are:
  - (a) Cease the residential occupation of the building
  - (b) Permanently remove all internal partitions to the first floor of the building.
  - (c) Permanently remove all building material resulting from (b) above and any other building materials stored on the land.
  - (d) Remove all uPVC windows from the building and the single timber door located on the right hand side of the front elevation of the ground floor.
  - (e) Replace the first floor uPVC windows with traditional timber framed windows each of which should consist of two sliding sash windows, each sash being composed of 8 panes of glass divided by timber glazing bars.
  - (f) Insert a pair of timber garage doors consisting of vertical boarding in place of the uPVC window and single timber door on the right hand side of the east facing elevation of the building (ground floor) under the existing lintel.
  - (g) Insert a timber 'stable' door on the left hand side of the east facing front elevation of the building (ground floor) under the existing single lintel. Fill in the remaining portion of the opening with brick to match that on the existing building.
- The period for compliance with the requirements is six months.
- The appeal was made on the ground set out in Section 174(2)(f) of the 1990 Act

**Summary of Decision:** The appeal is dismissed.

### Procedural Matters

1. As the prescribed fees payable under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 have not been paid to the Secretary of State and the Local Planning Authority within the prescribed period the application deemed to have been made under Section 177(5) of the 1990 Act as amended does not fall to be considered.

2. At the inspection it emerged that, although the door of the building was open, the agent had no authority to enter the building. With the agreement of the parties I confined my inspection to the exterior of the building, though I did look through the door at the ground floor interior.

### **The Ground (f) Appeal**

3. The only matter I have to decide is whether the steps required to be taken exceed what is necessary to remedy any breach of planning control which has occurred, or to remedy any injury to amenity which has been caused by any such breach.

#### **Inspector's Reasoning**

4. The notice was issued for two basic reasons: first, because the residential use of the property was said to be giving rise to loss of amenity (by reason of noise and general disturbance, and loss of privacy) by neighbouring residents; and second, because the alterations to the building, particularly the uPVC windows, were said to harm the appearance of the building and of the Aldbury Conservation Area. I shall consider these matters in turn.
5. So far as the impact on residential amenity is concerned, I consider there can be no doubt that use of the building as a dwelling is likely to give rise to loss of privacy by reason of overlooking from the first floor windows. I say this having particular regard to the close proximity of the building to the rear of the dwellings fronting the lane. The regular comings and goings associated with a separate residential use are also likely to give rise to noise and general disturbance. In my opinion the only way in which this loss of amenity can be remedied is by discontinuing the residential use as required by the notice.
6. Turning to the alterations to the building, I find the uPVC windows to be an incongruous feature in this highly attractive Conservation Area where for the most part traditional materials have been retained. In the immediate vicinity of the building only No 12 Maltings Lane has uPVC windows. The other alterations to the building tend to add to the residential character it has assumed and, in this backland setting, I am not convinced that such a use is appropriate. I consider that the only satisfactory way to remedy the harm caused is to carry out the works required by the notice.
7. I understand that schemes are to be, or have been, submitted to try and resolve the future use of this building. In my view this has more bearing on the adequacy of the period for compliance than on whether or not the requirements are excessive. I consider the period for compliance to be adequate.

#### **Conclusion**

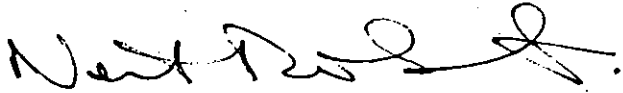
8. I conclude that the requirements of the notice do not exceed what is necessary to remedy the breach of control and the resultant harm to amenity. Accordingly, the ground (f) appeal fails.

### **FORMAL DECISION**

9. I dismiss the appeal and uphold the enforcement notice.

**Right of Appeal to the High Court**

10. This decision 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.



Inspector