

Town Planning  
Ref. No. .... 4/1992/87 .....

Other  
Ref. No. ....

**TOWN & COUNTRY PLANNING ACTS, 1971 and 1972**

**THE DISTRICT COUNCIL OF ..... DACORUM .....**  
**IN THE COUNTY OF HERTFORD**

To Mr P Baker  
40 Dinmore  
Bovingdon Herts

... Two storey rear extension and conversion .....  
... of dwelling to form 2 flats: .....  
at 1 Deaconsfield Road 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 31.12.87 and received with sufficient particulars on 31.12.87 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 development hereby permitted shall not be occupied until the arrangements for vehicle parking shown on plan 4/1992/87 shall have been provided and they shall not be used thereafter otherwise than for the purposes approved.
- (3) Before development is commenced a scheme shall be submitted to and approved by the local planning authority illustrating the means by which sound transmissions between ground and first floors and adjoining properties shall be resisted. Such scheme as 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 ensure an adequate standard of sound attenuation and in the interests of amenity.

Dated..... 25th ..... day of FEBRUARY ..... 19. 08 .....

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.

## Appeal against listed building enforcement notice

## Section 97.

(1) A person having an interest in the building to which a listed building 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 on any of the following grounds—

- (a) that the building is not of special architectural or historic interest;
- (b) that the matters alleged to constitute a contravention of section 55 of this Act do not involve such a contravention;
- (c) that the contravention of that section alleged in the notice has not taken place;
- (d) that works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary;
- (e) that listed building consent out to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (f) that copies of the notice were not served as required by section 96(3) of this Act;
- (g) except in relation to such a requirement as is mentioned in section 96(1)(b)(ii) or (iii) of this Act, the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (h) that the period specified in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by virtue of section 96(1)(b)(ii) of this Act exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) that steps required to be taken by virtue of section 96(1)(b)(iii) of this Act exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

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

(3) A person who gives notice under subsection (2) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed under subsection (4) of this section, a statement in writing—

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

(4) 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, may make any such provision in relation to appeals under this section as may be made in relation to appeals under section 88 of this Act by regulations under subsection (5) of that section.

(5) The Secretary of State—

- (a) may dismiss an appeal if the appellant fails to comply with subsection (3) of this section within the time prescribed by regulations under subsection (4); and
- (b) may allow an appeal and quash the listed building enforcement notice if the local planning authority fail to comply with any requirement of regulations under this section corresponding to regulations made by virtue of subsection (5)(b), (c) or (e) of section 88 of this Act within the period prescribed by the regulations.

(6) Subject to subsection (7) of this section, 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.

(7) 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 (5) of this section or to allow an appeal and quash the listed building enforcement notice under paragraph (b) of that subsection.

(8) If—

- (a) a statement under subsection (3) of this section specifies more than one ground on which the appellant is appealing against a listed building enforcement notice; but
- (b) the appellant does not give information required under paragraph (b) of that subsection in relation to each of the specified grounds within the time prescribed by regulations under subsection (4) 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.

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

(10) Schedule 9 to this Act applies to appeals under this section.

## Section 97A

(1) On the determination of an appeal under section 97 of this Act, the Secretary of State shall give directions for giving effect to the determination, including, where appropriate, directions for quashing the listed building 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 listed building 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 listed building 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.

(4) On the determination of such an appeal the Secretary of State may—

- (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
- (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous;
- (c) if he thinks fit, exercise—
  - (i) his power under section 54 of this Act to amend any list compiled or approved under that section by removing from it the building to which the appeal relates; or
  - (ii) his power under subsection (10) of that section to direct that that subsection shall no longer apply to the building.

(5) Any listed building consent granted by the Secretary of State under subsection (4) of this section shall be treated as granted on an application for the like consent under Part I of Schedule 11 to this Act, and the Secretary of State's decision in relation to the grant shall be final.

## Penalties for non-compliance with listed building enforcement notice

## Section 98

(1) Subject to the provisions of this section, where a listed building enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the building to which it relates, then, if any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, that person shall be guilty of an offence and 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 have been 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 building, 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 building (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 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 was 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 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 notice, he shall be guilty of a further offence and be liable—

- (a) on summary conviction to a fine of not more than £200 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled; or
- (b) on conviction on indictment to a fine.

(5) Any reference in this section to the period allowed for compliance with a listed building enforcement notice is a reference to the period specified in the notice as that within which the steps specified in the notice are required thereby to be taken, or such extended period as the local planning authority may allow for taking them.

## Execution and cost of works required by listed building enforcement notice

## Section 99.

(1) If, within the period specified in a listed building enforcement notice as that within which the steps specified in the notice are required thereby to be taken, or within such extended period as the local planning authority may allow, any steps required by the notice to be taken have not been taken, the authority may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

(2) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a listed building enforcement notice and any sums paid by the owner of a building under subsection (1) of this section in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) The provisions of section 91 (3) and (4) of this Act shall apply in relation to a listed building enforcement notice as they apply in relation to an enforcement notice; and any regulations made by virtue of this subsection may provide for the charging on the land on which the building stands of any expenses recoverable by a local planning authority under subsection (1) of this section.

## NOTE

Attention is also drawn to Section 243 of the Town and Country Planning Act 1971 which relates, *inter alia*, to the validity of listed building enforcement notices.