

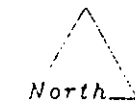
THIS IS THE PLAN REFERRED TO IN MY DECISION LETTER

P.A. Taylor

175 JAN 1998

Map ref: SP9709SW

Scale 1: 1250



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T/APP/C/97/A1910/646897-S-9



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PLANNING DEPARTMENT		DACORUM BOROUGH COUNCIL	
Mr M Walden	Off.	DEC	
33 Swing Gate Lane	D.P.	SC.	File
BERKHAMSTED			4/0590/97EN
Hertfordshire			Our Reference:
HP4 2LN	22 JAN 1998		APP/C/97/A1910/646774
	ments		Date:
			21 JAN 1998

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
APPEAL BY MR S J HEXT
LAND AND BUILDINGS AT 31 CROSS OAK ROAD, BERKHAMSTED,
HERTFORDSHIRE.

1. I have been appointed by the Secretary of State for the Environment to determine your Client's appeal against an Enforcement Notice issued by the Dacorum Borough Council concerning the above mentioned land and buildings. I have considered the written representations made by you and the Council and also those made by other interested persons. I inspected the site on 17 December 1997.

THE NOTICE

2. (1) The Notice was issued on 18 February 1997.
- (2) The breach of planning control alleged in the Notice is the erection of a building to the rear of, and within the curtilage of, 31 Cross Oak Road, Berkhamsted, Hertfordshire.
- (3) The requirements of the Notice are:
 - (i) To dismantle the building;
 - (ii) To permanently remove the materials from the site.
- (4) The period for compliance with these requirements is four months.

100%



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GROUND OF APPEAL

3. Your Client's appeal is proceeding on the ground (f) as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991. As the prescribed fees under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989-93 have not been paid to the Secretary of State and the Local Planning Authority within the period specified, the deemed application for planning permission under section 177(5) does not fall to be considered.

THE SITE AND SURROUNDINGS

4. The appeal building is at the end of the garden of No 31 Cross Oak Road, directly fronting Middle Road, a narrow unmade road linking Charles Street in the south to Cross Oak Road in the north. Middle Road has some residential properties fronting the street. In addition there is an auction room and a block of lock-up garages to the north. Other rear gardens nearby contain outbuildings or garages fronting Middle Road. The surrounding roads are predominantly residential in character.

BACKGROUND

5. Planning permission for a single garage on the site of the appeal building was approved in August 1990. The approved single garage was shown as being 4.65m in width, 7m in length and 5.3m in height. A condition of the permission required the external materials of construction to be approved by the Council before construction began. A further condition was added to ensure that the building was used only for purposes incidental to the residential use of No 31 Cross Oak Road.

6. The appeal building covers approximately the same floor area as that for the approved garage, but the ridge height is now approximately 6m. In addition there are no garage doors on the east elevation, which now contains a window and a front door and at first floor level an oriel window has been inserted in the gable end. There is also a domestic door at the west end of the building in addition to a window and at first floor level a further window has been inserted. There is a roof light on each face of the roof. Internally a floor has been added creating in effect a two storey building although there were no stairs at the time of my visit.

7. Retrospective planning permission for the retention of the building on the appeal site was refused by the Council on 18 February 1997. The application sought a change of use from a garage to a dwelling annex. A further application to retain the building was submitted on 9 June 1997. This application sought amongst other matters to retain the two velux roof lights, remove the windows and make good the brickwork on the east and west gable ends at the upper floor level, and remove the window and single door at the east end of the building replacing them with an up and over garage door. This application was refused on 25 September 1997.

THE APPEAL ON GROUND (F)

8. In the circumstances of this case the reasons for the issue of the Enforcement Notice are concerned both with remedying the breach of planning control that has taken place and with remedying any injury to amenity within the Conservation Area caused by the breach. The planning merits of the development that has been carried out do not fall to be considered under this ground.

9. The appeal building has the character and appearance of a residential unit. The Council have pointed out that the emerging Dacorum Borough Local Plan sets out the need for parking space and amenity space for a residential unit such as the appeal development. Clearly this residential unit has no amenity space of its own, its construction has considerably reduced the amenity space of No 31 Cross Oak Road and it is a new residential unit for which there is no parking provision. In the absence of an appeal under ground (a) or of a deemed application, it is not appropriate for me to consider any variation of the requirements of the Notice which would be aimed at trying to take away the visible signs of the residential unit whilst replacing them with alterations which would create the appearance of a garage.

10. In the past the Council have found that a garage on the site of the appeal building was acceptable. The Council have put forward conditions which they consider should apply if the building is to be retained in some form as a garage. There is no opportunity for me to consider those conditions in the context of the ground (f) appeal. The only way to bring the development in line with Development Plan Policy would be to make a new application for a garage development in full awareness of the Council's likely demands in the form of conditions set out in Section 8.1 of their statement.

11. A unit of residential development has been built in the curtilage of No 31 Cross Oak Road, without the necessary grant of planning approval. Requirements in the Enforcement Notice that the building should be demolished and that the materials of construction should be removed from the site cannot in these circumstances be considered to be excessive, they are entirely appropriate. For these reasons, the appeal on Ground (f) fails.

OTHER MATTERS

12. I have taken account of all the other matters raised in the representations, including your letter of 6 January 1998 and the Council's response, but they do not outweigh the considerations which have led to my decision.

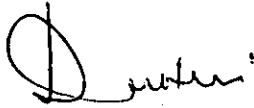
FORMAL DECISION

13. For the above reasons, and in exercise of the powers transferred to me, I dismiss your Client's appeal and 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 to the High Court against the decision are enclosed for those concerned.

Yours faithfully



D A Hill BSc CEng MICE
Inspector

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