

20 DEC 1988

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EN/88/0118

Shoosmiths & Harrison  
Solicitors  
Compton House  
Abington Street  
NORTHAMPTON  
NN1 2LR

Council Reference:

EN.118

Your Reference:

BMW/JRW

Our Reference:

T/APP/C/88/L2820/05/P6

Date: 15 DEC 88

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
APPEAL BY SPRINGFIR ESTATES LTD  
LAND AND BUILDINGS AT BUILDERS YARD, OXFORD STREET, ROTHWELL

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against an enforcement notice issued by the Council of the Borough of Kettering concerning the above land and buildings. I have considered the written representations made by you and by the Council and also those made by the Rothwell Town Council and interested persons. I inspected the site on 28 November 1988.
2. a. The notice was issued on 3 May 1988.  
b. The breach of planning control alleged in the notice is the carrying out of development by the erection of a barbed wire fence on the property in the position shown on the enforcement notice plan.  
c. The requirements of the notice are the removal of the barbed wire security fence which is the subject of the notice and planning application reference number KE/87/0045.  
d. The period for compliance with the notice is 2 months.  
e. The appeal was made on the grounds set out in section 88(2)(a) and (h) of the 1971 Act as amended.

## SITE AND SURROUNDINGS

3. The appeal site lies on the east side of Oxford Street at its southern end. It comprises a roughly rectangular plot containing a new warehouse, a workshop and a range of garages and it is occupied as a builders yard. Along the frontage of the site are 2.1 m high brick walls on top of which are 0.8 m high metal stanchions carrying 4 strands of barbed wire. A double entrance provides access to the site which can be closed off by means of solid gates slightly lower than the brick walls.

4. Apart from this builders yard and a small warehouse opposite the appeal site, also in your clients' ownership, Oxford Street consists entirely of a mixture of detached and semi-detached dwellings. It lies within a predominantly residential area although the Rothwell Football Ground is situated just to the north east with access from Cecil Street a short distance to the west of the junction of that road with Oxford Street.

#### HISTORY

5. Following acquisition of the appeal site in 1983, your clients obtained planning permission in January 1984 for its redevelopment and general improvement. Under this permission the brick walls were erected with planting along the Oxford Street frontage. As a result of experiencing problems of trespass and vandalism the barbed wire fencing was erected as an addition to the walls.

#### GROUND (a)

6. On the planning merits of the appeal on ground (a), from the written representations and my inspection of the site and its surroundings I have formed the view that the principal issue in this case is whether the fencing materially harms the appearance and character of the area.

7. I found the site to be neat and tidy and with the well constructed brick walls softened by planting it does not appear unduly out of keeping with its residential surroundings. However, the addition of the barbed wire fence makes the site look more conspicuous in the street scene and emphasises its non conformity with the residential character of the locality. I consider the fence is unsightly and diminishes the careful improvements made to this site by your clients. The impact of the fence, in my view, would be worsened by the requirement of the police that a notice be displayed indicating the presence of security fencing. Although painting the stanchions a less dominant colour might reduce the visibility of the fence to some extent, it is my opinion that the presence of a security fence of this type in an essentially residential area is inappropriate. I conclude, therefore, that the fence is materially harmful to the appearance and character of this area.

8. I appreciate the security needs of your clients and that the police consider this fence to be the most appropriate way of deterring trespass and vandalism. Nevertheless, alternative methods are available albeit these might prove more expensive to your client. In view of my conclusions above I do not consider that the security requirements of your clients outweigh the environmental objections to the retention of this fence.

#### GROUND (h)

9. As the Council raise no objection to the extension of the period of compliance to the 4 months you request in order for your clients to choose and install an alternative security system, I propose to vary the notice accordingly.

10. I have taken into account all other matters raised in the written representations including the fencing at the football ground to which you refer me. However, I found this to be less conspicuous than that at the appeal site and not directly comparable. I find no other matter of such weight as to override the considerations which have led to my conclusions.

11. Paragraph 1 of the notice incorrectly recites "after the end of 1963" rather than the correct recital of "within the period of 4 years before the date of issue of this notice". In addition, the requirements of the notice

set out in Schedule 3 describe the fence as a "security" fence, a term not used in the allegation contained in Schedule 2. In my opinion, the correction of both of these matters under the powers contained in Section 88A(2) would clarify the notice without causing any injustice to either party.

#### FORMAL DECISION

12. For the above reasons, and in exercise of the powers transferred to me, I hereby correct paragraph 1 of the notice by deleting the words "after the end of 1963" and substituting therefor the words "within the period of 4 years before the date of the issue of this notice". I also correct Schedule 3 of the notice by deleting the word "security" between the words "wire" and "fence" and vary the period of compliance with the notice by deleting the words "two months" and substituting therefor the number and word "4 months". Subject thereto, I dismiss this appeal, uphold the enforcement notice, and refuse to grant planning permission in respect of the application deemed to have been made under section 88B(3) of the 1971 Act as amended.

#### RIGHT OF APPEAL AGAINST DECISION.

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

I am Gentlemen  
Your obedient Servant



LEONORA J ROZEE BA(Hons)MRTPI  
Inspector

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