



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Mr D R Wright, Mrs F Wright &
Mr D Wright
5 Vale Street
KETTERING
Northamptonshire
NN16 9EB

Council Ref:
EN.228

Our Ref:
T/APP/C/95/L2820/638744-638746

Date: 30 JUL 1996

Dear Sirs & Madam

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT 5-7 VALE STREET, KETTERING**

1. The Secretary of State for the Environment has appointed me to determine your appeals against an enforcement notice issued by the Kettering 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 interested persons. I inspected the site on 13 June 1996.

The Notice

2. (a) The notice was issued on 9 May 1995.

(b) The breach of planning control as alleged in the notice is, without planning permission, the unauthorised change of use of a residential property to a combination of residential and commercial uses by the conducting thereof of activities in connection with the operation of a business dealing with, storing, repairing and breaking motor vehicles.

(c) The requirement of the notice is to cease fully the use of the affected land for the conduct of commercial activities associated with the dealing of, storage, repairing and breaking of motor vehicles or components.

(d) The period for compliance with this requirement is 28 days.

Ground of appeal

3. Your appeals are proceeding on ground (b) 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.

4. At the time of my visit, you asked me to look around your house and the rear garden and there were no signs of any storage, breaking or repairing of motor vehicles on the premises. However, the Council's main concern is that you have been conducting the business from the house and that this has resulted in vehicles being stored and repaired outside the premises on Vale Street and Union Street.

5. I note that Mr D R Wright has a vehicle disposal business elsewhere and Mrs Wright has said that she only does the bookkeeping at the house. Whilst the bookkeeping would in normal circumstances not be in breach of planning control, the Council have presented me with a full account of the vehicles which were stored near 5/7 Vale Street in 1994/95 and also evidence relating to advertisements for cars for sale from the premises.

6. You have not challenged any of this evidence, and taking account of the representations from neighbours, I have come to the conclusion that, on the balance of probabilities, you have used 5/7 Vale Street to operate a business relating to dealing in, storage, repair and breaking of vehicles. There has therefore been an unauthorised change of use of the house from residential use to use for residential purposes as the Council have alleged.

7. I find, therefore, that the matters which the Council outlined in their evidence have occurred and your appeals therefore fail.

8. In coming to my conclusion I have taken account of all the other matters raised but none of these alters the considerations which have led to my decision.

Formal decision

9. For the reasons I have given and in exercise of the powers transferred to me, I dismiss your appeals and uphold the enforcement notice.

Rights of appeal against the decisions

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

Yours faithfully



PAUL V MORRIS DipTP MRTPI
Inspector

ENC.



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NN15 7QX

Your Ref:
GAD/JSM/618211

Our Ref:
T/APP/C/95/L2820/638744
638746

Date: 19 August 1996

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 174
APPEALS BY MR D R WRIGHT & MRS F WRIGHT
LAND AT 5-7 VALE STREET, KETTERING

Thank you for your letter of the 8 August about the decision on these appeals.

I agree with you that a typographical error has occurred in paragraph 6 of the decision letter. The words " and commercial" were omitted between "residential" and "purposes" in the second sentence. I apologise for this omission and any inconvenience that it may have caused.

Once a decision is issued neither the Inspector nor the Secretary of State has any further jurisdiction in the matter. The letter may only be altered following a successful challenge in the High Court. I therefore regret I am unable to amend the decision. Although I am unable to correct paragraph 6 I note from paragraph 9 that the enforcement notice was not varied but was upheld as issued by your council.

I have sent a copy of your letter and a copy of this reply to Mr & Mrs Wright to note.

Yours faithfully

Vivien A Barlow (Mrs)
Enforcement Appeal Support Group