



# The Planning Inspectorate

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Your reference:  
DWD/TG/HOBB  
Council reference:  
MAS.EN.97.0156  
Our reference:  
APP/L2820/C/98/1010691  
Date:

- 9 JUL 1999

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6  
PLANNING AND COMPENSATION ACT 1991  
APPEAL BY MR S HOBBS  
SITE AT WOODLAND CARS, 104 HIGH STREET, BURTON LATIMER

1. I have been appointed by the Secretary of State for the Environment, Transport and the Regions to determine your client's appeal against an enforcement notice issued by the Kettering Borough Council concerning the above mentioned site. I have considered the written representations made by you and the Council and also those made by Burton Latimer Town Council. I inspected the site and its surroundings on 30 June 1999.

## THE NOTICE

2. (1) The notice was issued on 31 July 1998.
- (2) The breach of planning control as alleged in the notice is the erection of a boundary fence adjacent to the highway exceeding one metre in height.
- (3) The requirements of the notice are to (a) reduce the height of the fence so that it has a maximum height above ground level of one metre, where adjacent to highway between points A-B and B-C indicated on an attached plan, and (b) remove the resulting redundant materials from the land.
- (4) The periods for compliance with these requirements are (a) 4 weeks and (b) 6 weeks.

## GROUND OF APPEAL

3. Your client's appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act as amended by the Planning and Compensation Act 1991.



4. The main issue is the visual impact on the street scene, in the context of local policies protecting the visual amenity of the area.

5. The 1989 Northamptonshire Structure Plan provides in Policy GEN 4 that development will be acceptable provided (inter alia) it is in keeping with the locality and does not detract from its amenities. The 1995 Kettering Borough Local Plan provides in Policy 30 that permission will be granted for development whose character is appropriate in terms of (inter alia) design, and which will not have an adverse impact on the character of the area. Policy B2 of the Local Plan provides for environmental improvements for sites in Burton Latimer. Priority for such improvement is to be given to areas in the town centre and on the former A6 through the town. The appeal site is in Burton Latimer town centre and on the former A6. It is also identified on a plan indicating land associated with properties out of character with surrounding development where redevelopment/refurbishment proposals would be welcomed from an environmental point of view.

6. The commercial centre of Burton Latimer comprises buildings and open spaces of varying types and appearance. The overall impression however is one which is pleasing to the eye, although there are some sites which could be improved from a visual aspect. I give significant weight to the Local Plan provisions which seek to achieve such visual improvements, and take note of the fact that attention is drawn to the area which includes the appeal site as one in which improvements are envisaged. It is true, as you say, that "welcoming" such proposals is not the same as requiring them. Nonetheless there is a clear policy indication that developments in such areas will be looked at particularly carefully to ensure that they will be visually appropriate.

7. The fence the subject of this notice is in my judgement not appropriate in that context. It is constructed of vertical black metal railings linked by similar horizontal rails, presenting a simple, uncluttered appearance which could be acceptable in other surroundings. In the street scene in this town centre, however, it stands out as a stark and visually incongruous feature. It is primarily the height of the fence, nearly 2m, together with its unrelieved length, which gives it what the council, rightly in my view, describe as a "fortress" appearance. It is appreciated that property protection is an important factor which calls for a secure fence, and reducing the height to one metre would reduce its efficacy for that purpose. A boundary feature of the required height does not need to have such an austere and utilitarian appearance, however, and I note that the council have already suggested how the design could in their opinion be made acceptable.

8. I have taken note of other fences in the town with which you compared the subject fence, but cases involving visual impact particularly have to be judged on their own facts and circumstances. I have read the petition which supports the development, but in my judgement it is in conflict with the

policies protecting the visual environment which have been cited. A decision to refuse the deemed application is therefore in accordance with the development plan, and I do not consider that there are any material considerations indicating otherwise. I have considered all other matters that have been raised, but I have found nothing important enough as to outweigh the planning considerations that have led me to my conclusions.

#### FORMAL DECISION

9. For the above reasons, and in exercise of the powers transferred to me, I dismiss your client's appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under S177(5) of the amended Act.

#### RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully

A handwritten signature in dark ink, appearing to read 'B. Partridge', with a long horizontal flourish extending to the right.

BRIAN PARTRIDGE, LL.B, Solicitor  
Inspector

ENC

# **KETTERING BOROUGH COUNCIL**

## **IMPORTANT - THIS COMMUNICATIONS AFFECTS YOUR PROPERTY**

### **TOWN & COUNTRY PLANNING ACT 1990** **(AS AMENDED BY THE PLANNING & COMPENSATION ACT 1991)**

#### **ENFORCEMENT NOTICE**

ISSUED BY: KETTERING BOROUGH COUNCIL of Municipal Offices, Bowling  
Green Road, Kettering in the County of Northampton.

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to them that there have been breaches of planning control, under Section 171(A)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the Development Plan and to other material planning considerations.

2. **THE LAND AFFECTED**

Land situate at Woodland Cars, 104 High Street, Burton Latimer in the County of Northampton as is shown for the purposes of identification only on the attached plan and edged in red.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without the benefit of planning permission, the erection of a boundary fence adjacent to the highway exceeding one metre in height.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that this breach of planning control has occurred within the last 4 years, and:

The height and design of the boundary fence forms an incongruous and prominent feature in the street scene which is detrimental to the character of the street and is contrary to Policy 30 (Environment: New Development) and Policy B2 (Burton Latimer: Environmental Improvements) of the Local Plan for Kettering Borough.

5. **WHAT YOU ARE REQUIRED TO DO**

The steps required to remedy the breach of planning control are:

- (a) Reduce the height of the fence so that it has a maximum height above ground level of one metre, where adjacent to highway between points A-B and B-C indicated on the attached plan.

Time for compliance: 4 weeks from the date this notice takes effect.

- (b) Remove the resulting redundant materials from the land.

Time for compliance: 6 weeks from the date this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 6th September 1998 unless an appeal is made against it beforehand.

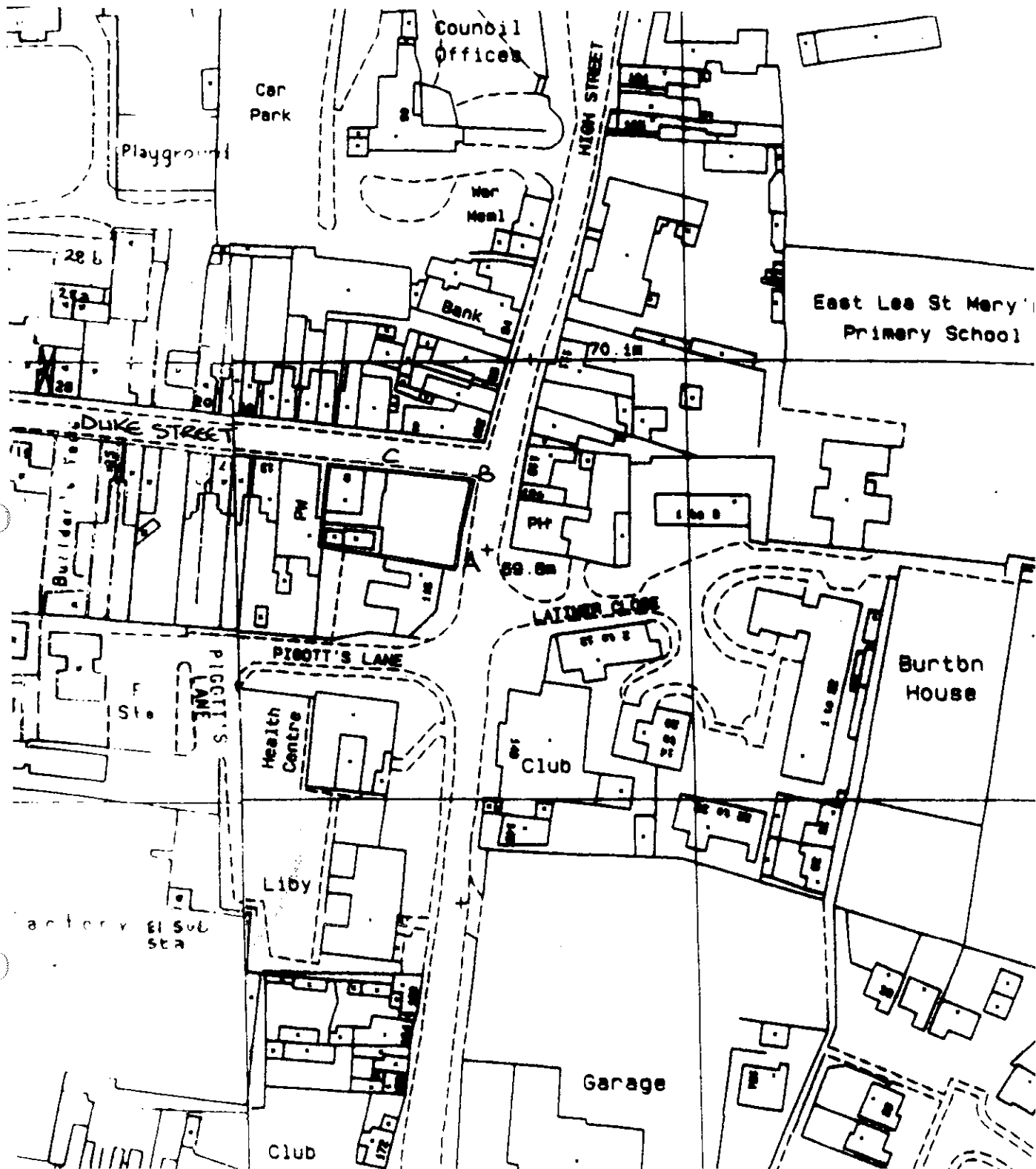
DATED: 31st July 1998

Signed



Head of Legal Services  
(Proper Officer for this Purpose)

Kettering Borough Council  
Municipal Offices  
Bowling Green Road  
KETTERING  
Northants  
NN15 7QX



Title: Enforcement Notice Town and Country Planning Act 1990 (as amended)  
Woodland Cars 104, High Street, Burton Latimer  
EN 97/0156

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Scale: 1:1250

North:



Date: 22/07/98

Drawn by: JSW

LA078344

**Kettering**  
Borough Council

## **ANNEX**

### **YOUR RIGHT OF APPEAL**

You can appeal against this Notice but any appeal must be received, or posted in time to be received, by the Secretary of State before 6th September 1998. The enclosed booklet "Enforcement Notice Appeals - A Guide to Procedure" sets out your rights. Read it carefully. You may use the enclosed appeal forms. One is for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State the spare copy of this Enforcement Notice which is enclosed.

### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this Enforcement Notice, it will take effect on 6th September 1998 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the Notice. Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.