

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

ST ALBANS DISTRICT COUNCIL

Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

16 HIGH STREET, WHEATHAMPSTEAD, HERTFORDSHIRE

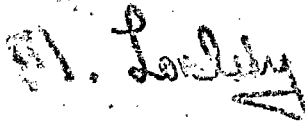
WHEREAS:-

- (1) It appears to the Council of the City and District of St Albans "the Council", being the local planning authority for the purposes of Section 172 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) ("the Act") in this matter, that there has been a breach of planning control within paragraph (a) of Section 171A(1) of the Act within the period of **4 years** before the date of issue of this Notice on the land or premises ("the land") described in Schedule 1 below.
- (2) The breach of planning control which appears to have taken place consists in the carrying out of the **building, engineering, mining or other operations described** in Schedule 2 below, without the grant of planning permission required for that development.
- (3) The Council consider it expedient, having regard to the provisions of the development plan and to all other material considerations, to issue this Enforcement Notice, in exercise of their powers contained in the said Section 172, for the reasons set out in the annex to this Notice.

NOTICE IS HEREBY GIVEN that the Council require that the steps specified in Schedule 3 below be taken in order to remedy the breach within the period of 56 days from the date on which this Notice takes effect.

THIS NOTICE SHALL TAKE EFFECT, subject to the provisions of Section 175(4) of the Act, on 7 March 2008

Issued 25 January 2008



M Lovelady LLB (Solicitor)
Head of Legal and Democratic Services

District Council Offices
Civic Centre
St Peter's Street
St Albans
Herts AL1 3JE

SCHEDULE 1

Land or premises to which this Notice relates
16 High Street, Wheathampstead, Hertfordshire

(edged red on the attached plan).

SCHEDULE 2

Alleged breach of planning control

Installation of metal security shutter to ground floor frontage.

SCHEDULE 3

Steps required to be taken

Remove the security shutter.

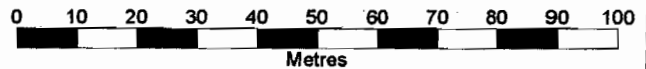
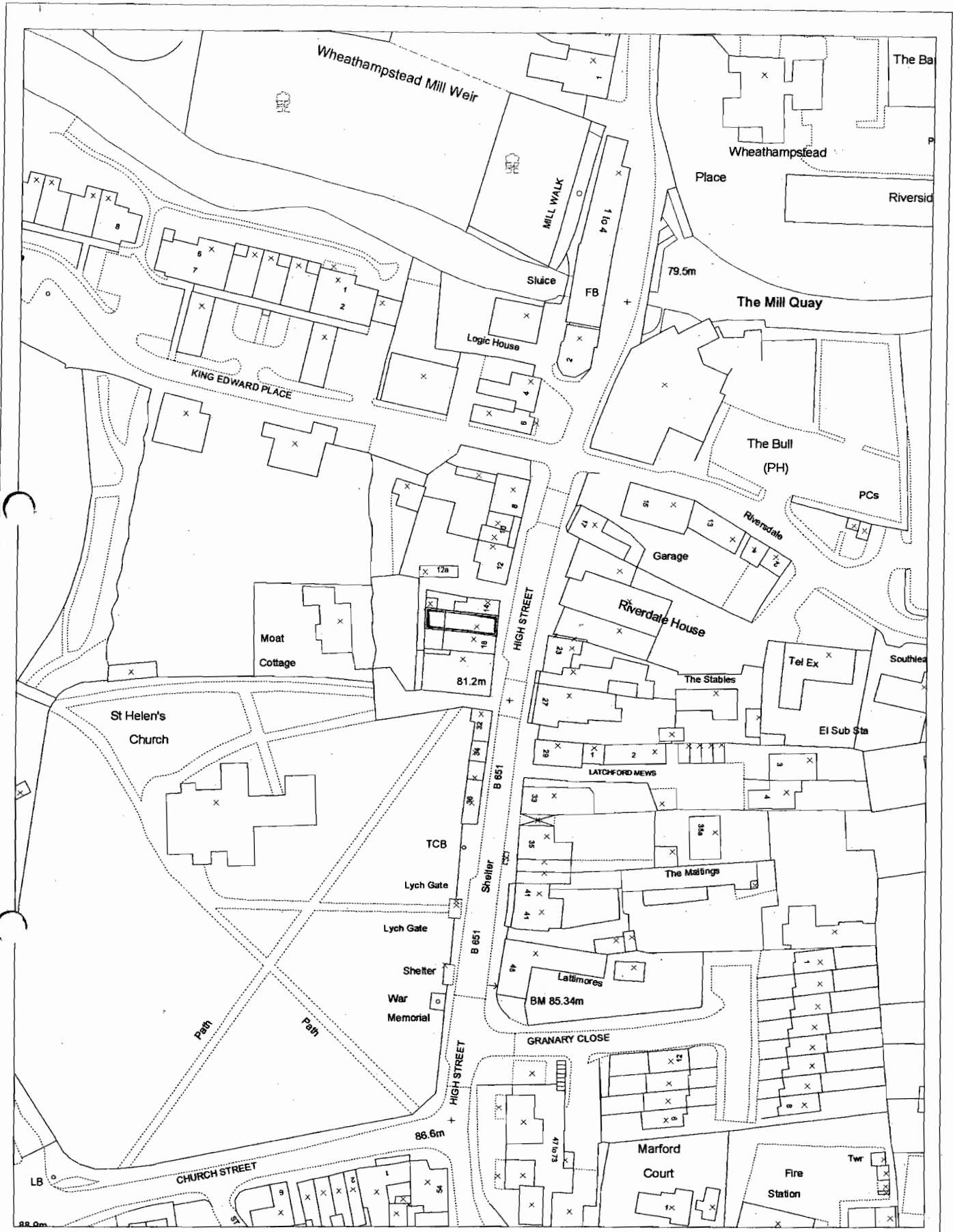
YOUR ATTENTION IS DIRECTED TO THE ATTACHED BOOKLET WHICH
EXPLAINS YOUR RIGHT OF APPEAL AGAINST THIS NOTICE. YOU
SHOULD READ IT CAREFULLY.

ANNEX

Regulation 4 of the Town and Country Planning (Enforcement Notices and Appeals) Regulations 2002

The Council consider it expedient to issue the attached Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991) for the following reasons:-

“The security shutter as installed is unacceptable by virtue of its form and design. The shutter significantly detracts from both the character and appearance of the existing building and the Wheathampstead Conservation Area. It is therefore contrary to Policies 69, 85 and 90 of the St Albans District Local Plan Review 1994.”



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Appeal Decision

Site visit made on 28 February 2008

by **Philip Barton MCD BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
8 April 2008

Appeal Ref: APP/B1930/A/07/2060459

16 High Street, Wheathampstead, Hertfordshire AL4 8AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mehmet Berkay against the decision of St Albans City and District Council.
- The application Reference 5/07/0376, dated 2 February 2007, was refused by notice dated 21 May 2007.
- The development proposed is a metal security shutter.

Decision

1. I dismiss the appeal.

Procedural Matter

2. During my site visit I established that the proposed development has already taken place. I have determined the appeal accordingly.

Main Issue

3. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Wheathampstead Conservation Area (WCA).

Reasons

4. The appeal property (No. 16) is the middle property in a row of three. The Council indicates that it dates from 1936 and is located in the core of the WCA. Spread out in a generally linear fashion along the route of the B651, the WCA includes many examples of domestic and commercial buildings dating from the 17th through to the 20th century. The older buildings are half-timbered or built of red brick and most have reddish-brown tiled roofs, although a few are slate-covered. Of the several listed buildings in the vicinity of No. 16, in my view the effect of the proposal upon Nos. 8, 10 and 12 High Street is material in this case. In its context, No. 16 is not typical. Nevertheless, as a retail shop it performs an important function within the WCA, which is recognised on page 4 of the WCA Character Statement. However, this contribution must be weighed against other factors in this sensitive design environment.
5. From what I saw, the proposal has substantially altered the way that No. 16 relates to surrounding retail properties and has severely degraded the rôle it plays in helping to maintain the functional and design cohesion of this part of the WCA. At the time of my visit (14:30 on a weekday afternoon) the shutter

was closed and it appeared entirely unsympathetic in the context of the predominant materials of construction apparent in nearby buildings. Although perforated, the shutter also obscures from view key features of the building's frontage (the recessed door and plate glass window) that make an important contribution to its character and appearance, as well as its retail function. Furthermore, little or no attention appears to have been paid to the advice given in Security Shutters for Shopfronts – Guidance.

6. I find that, as a result of its design, size, siting and materials of construction, the proposal is causing substantial material harm to the character and appearance of the host building. It does not, therefore, accord with saved policy 69 of the City and District of St Albans District Local Plan Review (LP), adopted on 30 November 1994. This policy requires proposals to demonstrate an adequately high standard of design which employs materials that relate to adjoining buildings and otherwise respects the context of its surroundings.
7. Having paid special attention to the desirability of preserving or enhancing the character or appearance of the Wheathampstead Conservation Area, I find that, as a result of the harm to the character and appearance of the host building that I have identified, the proposal neither preserves nor enhances the character or appearance of the conservation area. Furthermore, as a result of its design, size, siting and materials of construction I find that it is causing significant material harm to the setting of nearby listed buildings. It does not, therefore, accord with saved LP Policies 85 and 90 which expect shop fronts in conservation areas to constitute an intrinsic part of the building which employs locally compatible materials that are normally traditional, natural and of good quality. In addition, proposals affecting the features and relief of building façades should complement and enhance the overall street frontage.
8. I understand the need for adequate security and recognise that the appellant has sought advice from the Police. Nevertheless, I have seen no evidence to indicate that other options, such as fitting demountable screens or internal grilles, would prove to be ineffective. I am not persuaded, therefore, that this proposal represents the only means of securing the shop. Furthermore, in my assessment, the narrow road, high kerbstones and traffic calming measures make ram-raiding unlikely at this location. Consequently, I consider that the appellant's concerns about security do not outweigh the harm that I have found in relation to the WCA and the setting of nearby listed buildings. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Philip Barton

INSPECTOR



Appeal Decision

Site visit made on 4 June 2008

by **Stephen Brown MA(Cantab) DipArch**
RIBA

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:

1 August 2008

Appeal Ref: APP/B1930/C/08/2065784

No. 16 High Street, Wheathampstead AL4 8AA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is by Mehmet Berkey against an enforcement notice issued by St Albans City & District Council.
- The Council's reference is P/ENF/449.
- The notice was issued on 25 January 2008.
- The breach of planning control alleged in the notice is without planning permission the installation of a metal security shutter to the ground floor frontage.
- The requirement of the notice is to remove the security shutter.
- The period for compliance with the requirements is 56 days.
- The appeal is proceeding on the grounds set out in section 174(2)(e) & (f) of the Town and Country Planning Act 1990 as amended.
- Before the date on which the enforcement notice took effect the appellant had made an appeal to the Secretary of State against the refusal of the local planning authority to grant planning permission for the development enforced against, and that appeal had not been determined. No fee is therefore payable, and the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Summary of decision: the appeal is dismissed, the enforcement notice upheld and planning permission refused on the deemed application.

Preliminary matters

1. Although no appeal has been made on ground (a), the case is exempt from the statutory fee and I have therefore considered the planning application deemed to have been made under Section 177(5) of the 1990 Act as amended.
2. The appellant has made an application for costs against the Council. This application is the subject of a separate Decision.

The appeal on ground (e)

3. The appellant says that the notice was served on the executors of Mr Titmuss, a deceased freeholder, at the address of an agent who no longer acted for them. As a result the notice was not properly served on everyone with an interest in the land.
4. However, the Council were acting upon information included in a completed questionnaire that I understand was received from that agent on 29 December 2007. Furthermore, the questionnaire names Mrs Titmuss as the freeholder. I note that the notice was also served on her at her home address, as well as being addressed to the owner at the property itself.

5. The circumstances indicate that the Council acted in good faith on the basis of information provided to them. Furthermore, the owner would have been fully aware of the existence of the notice, and able to inform the executors of the late Mr Titmuss that it had been issued. Furthermore, she could have appealed if she wished. Section 176(5) of the Act provides for non-service to be disregarded if no substantial prejudice has arisen. In this case Mr Berkey the tenant of the shop has been able to lodge an appeal against the notice, and I am unable to identify any substantial prejudice that has arisen.
6. In the light of the foregoing, I consider the non-service on the executors of the late Mr Titmuss should be disregarded. The appeal on ground (e) therefore fails.

The appeal on ground (f)

7. An appeal on ground (f) is on the basis that the steps required by the notice exceed what is necessary to remedy any breach of planning control. The argument put for the appellant is that the Council had no need to issue the notice, since they had agreed not to take further action until an appeal against refusal of planning permission for retention of the security shutter had been determined (Council's decision notice ref. 5/07/0376 dated 21 May 2007, appeal ref. APP/B1930/A/07/2060459 dated 8 April 2008).
8. This is effectively an argument that no action need be taken and that the security shutter can remain in place. However, this would do nothing to remedy the breach, and no lesser steps have been put forward which might achieve this. As a result the appeal on ground (f) fails. I have dealt below with the appellant's argument that there was no need to issue the notice.

The deemed planning application

9. I appreciate that the planning appeal relating to retention of the shutter has been dismissed. Nevertheless, I intend to consider the matter afresh.
10. The appeal site lies within the Wheathampstead Conservation Area and I have therefore paid special attention to the desirability of preserving or enhancing its character or appearance, as required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
11. Development plan policy is from the St Albans District Local Planning Review of 1994. Policy 69 relates to the general design and layout of development and seeks to ensure an adequately high standard of design, employing materials that relate to adjoining buildings and respect the surroundings. Policy 85 seeks to protect conservation area interests. Policy 90 seeks to control the design and alteration of shop-fronts in conservation areas.
12. The appeal property stands on the western side of High Street in the historic centre of the village. It is a two-storey building, one of a row of three shops, with residential accommodation above. I understand it was probably built in the 1930s. The shop-front is of traditional design constructed in timber and plate glass, with a recessed doorway.
13. The shutter is constructed of galvanised steel, with guides attached to either side of the shop-front. The shutter was open at the time of my visit. Nevertheless, the guides and the bulky shutter rolled up into the box above the

fascia are prominent and intrusive, and are out of character with the traditional design of the shop frontage.

14. I understand from my colleague's recent appeal decision that the shutter is of perforated metal, but even so that it obscures key features of the building from view – notably the recessed door and plate glass windows. It can readily be seen that this would be the case, and that when closed the shutter would create a blank and unattractive frontage to the street. I consider this would detract from the appearance of the retail frontage generally.
15. This part of the Conservation Area has buildings of highly varied age and design. These include half-timbered, rendered, and red brick buildings, with tiled or slated roofs, some of which are clearly ancient, and I note that a number are statutorily listed as being of architectural or historic interest. The appeal property is from the first half of the 20th century, but is of decent design, and makes a positive contribution to the attractive character and appearance of this busy, historic village centre.
16. In this context of predominantly traditional forms and materials, and the attractive retail frontage I find the security shutter to be incongruous and intrusive, causing significant harm to the character and appearance of the appeal property and of the Conservation Area. The development does not accord with the aims of Local Plan Policies 65, 89 & 90. I intend to refuse planning permission on the deemed application. Had an appeal been made on ground (a) it would have failed.

Other matters

17. Under Section 172(1) of the Act, as amended by Section 5(1) of the Planning and Compensation Act 1991, the Local Planning Authority may issue an enforcement notice where it appears to them that there has been a breach of planning control and that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
18. The Council's officers drafted their report to committee concerning possible enforcement action in early November 2007, before the appeal against refusal of planning permission was made. They considered the action would be expedient in the light of the continuing harm to Conservation Area interests and the character and appearance of the building. In the light of this their action was reasonable, since to delay issuing the notice would result in delay in remedying the harm.
19. The appellant made his appeal against the planning decision in November 2007, after the report had been drafted, but before it was put to committee. In the event that the planning appeal for retention of the security shutter had been allowed, the enforcement notice would have ceased to have effect under the provisions of Section 180(1) of the Act as amended.
20. I appreciate that the appellant might feel aggrieved if the Council gave him to understand that enforcement action would not be taken until determination of an appeal. However, in my view the Council acted quite properly, in that there had been a breach of planning control, and it was a matter of expediency to remedy the breach. The fact that the notice was issued prior to determination

of the planning appeal effectively made no difference to the outcome from the appellant's point of view, since the notice would have ceased to take effect if the appeal had been allowed.

Conclusions

21. For the reasons given above and having regard to all other matters raised, I consider the appeal should not succeed. I intend to uphold the notice and to refuse planning permission on the deemed application.

Formal decision

22. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Stephen Brown

INSPECTOR