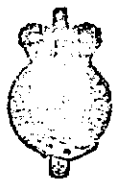


P.O.

please file



Ministry of Housing and Local Government  
Whitehall London SW1

Telephone 01-834 8540 ext. 126

Messrs Frederick Hazell Newman & Son  
135 Victoria Street  
Westminster SW1

Please reply to The Secretary

Your reference

PAN/HAN

Our reference

T/APP/4108/A/39829

Date

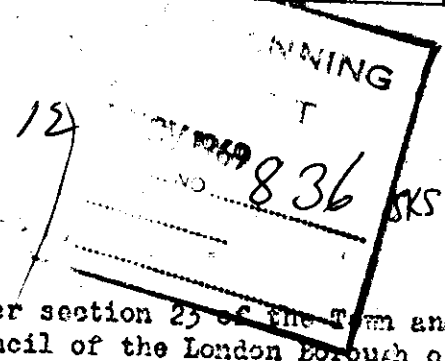
19 NOV 1969

FG/2/C

Gentlemen

31 FROGNAL

AND COUNTRY PLANNING ACTS 1962-1968  
DRAWN BY MISS D E NEWMAN



1. I refer to your client's appeal under section 23 of the Town and Country Planning Act 1962 against the decision of the Council of the London Borough of Camden to refuse planning permission for the erection of a timber garage on the forecourt of No 31 Frognal, Hampstead, NW3. The determination of this appeal falls to me by virtue of Part III of the Town and Country Planning Act 1968 and the Regulations made thereunder. I have considered all the written representations made by you and by the council, and also those made by other interested persons. I inspected the site on Monday 6 October 1969.

2. The appeal property is on the western side of Frognal and faces on to the grounds of University College School. Together with No 31a to the north, it has been converted for independent residential use by the conversion of former garages with service flats over which was once attached to No 28 Arkwright Road. The resulting pair of houses share a common open forecourt separated from the highway by a red brick wall. No 31a includes an integral garage but No 31 has no covered parking space. The vehicular access to the common forecourt is at the northern end of No 31a.

3. Your client proposes to erect a timber garage (height about 6 ft 7½ ins to the eaves) at the southern end of the forecourt about 5 ft behind the boundary wall. The garage (which is stated to measure 18 ft by 9 ft) would lie parallel to the wall with doors opening towards the north. The wall here rises to about 6 ft above street level although, owing to the difference in level inside the forecourt, the internal wall height is in places slightly less than 5 ft.

4. The main arguments advanced on behalf of your client are: first, it is desirable to provide garages for private dwellings and the application rectifies a deficiency. Second, there are no houses opposite nor is there any objection from adjoining property owners. Third, the proposed development would have no significant impact on the street scene or be detrimental to general amenity. It is stated that your client would accept any reasonable requirement with regard to screening and is reluctant to reduce the level of the chosen site by excavation because of drainage difficulties.

5. The main arguments advanced on behalf of the council are: first, the garage would project above wall level and therefore be detrimental to the visual amenities of the area. Second, no form of screening could satisfactorily overcome the amenity objection. The council point out that off-street parking space already exists within the curtilage and that no objection would be taken in principle to a suitably designed garage on the forecourt which was hidden by the boundary wall.

6. From my inspection of the site and its surroundings and the representations made, I am of the opinion that the determining issue is the effect of the proposal on the street scene in a locality which has considerable character and charm. Having regard to the fact that the proposed garage would be sited several feet behind the boundary wall, that the eaves would only be about 20 ins above wall level at the lowest point, that there would be some screening by intervening foliage and that other buildings would be seen in the background, I consider that the impact on the street scene would be minimal. In view of the need for covered parking at the property and the special circumstances relating to the site, the proposals should on balance be acceptable.

7. For the above reasons, and in exercise of the powers transferred to me, I hereby allow your client's appeal and grant planning permission for the erection of a garage on the appeal site in accordance with the terms of the application (No F6/2/C/6631) dated 6 February 1969, and the detailed plans submitted therewith, subject to the condition that the development hereby permitted shall be begun not later than 30 November 1974.

8. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 13 of the Town and Country Planning Act 1962.

I am Gentlemen  
Your obedient Servant



A F M SMITH C B E, M A, F R I C S  
Inspector



Ministry of Housing and Local Government  
Whitehall, London, S.W.1.

Under the provisions of section 179 of the Town and Country Planning Act 1962 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within six weeks from the date when the decision is given. (This procedure applies both to decisions of the Minister and to decisions given by an Inspector to whom an appeal has been transferred under section 21 of the Town and Country Planning Act 1968.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Acts of 1962 and 1968 (that is, the Minister or Inspector, as the case may be, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 179 of the Act of 1962: they are the requirements of that Act, the Act of 1968 and the Tribunals and Inquiries Act 1958, and the requirements of any orders, regulations or rules made under those Acts. This includes the Town and Country Planning (Inquiries Procedure) Rules 1965 to 1968 (S.I. 1965 No. 473 and S.I. 1968 No. 1953), which relate to the procedure on cases dealt with by the Minister, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1968 (S.I. 1968 No. 1952), which relate to the procedure on appeals transferred to Inspectors.

The right to make an application under section 179 as a "person aggrieved" is limited to the appellant or applicant (as the case may be) and persons whose legal rights have been infringed. The local authority who are directly concerned with the case are given a similar right of appeal.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.