

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

IN THE COUNTY OF HERTFORD.

To Shaw Bros. 129 London Road Markyate Herts. Allan S. Tomkins 38 Rothesay Road Luton Beds

Vehicle parking area at adj. 129 London Road, Markyate

Brief description and location of proposed development.

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated 8.1.85 and received with sufficient particulars on 15.1.85 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:-

- 1. The site is in a rural area beyond the Green Belt on the adopted Dacorum District Plan wherein permission will only be given for use of land, the construction of new buildings, changes of use or extension of existing buildings for agricultural or other essential purposes appropriate to a rural area of small scale facilities for participatory sport or recreation. No such need has been proven and the proposed development is unacceptable in the terms of this policy.
2. The expansion of this commercial use in an isolated position would further detract from the appearance and amenity of this rural area.

Dated 21st day of February 19 85...

Signed [Signature]

Chief Planning Officer

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.

**Department of the Environment and
Department of Transport**

Common Services

Room 1408

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 938

Switchboard 0272-218811

GTN 2074

Council Ref: A/0047/85 & 4/0730/85E

27 MAR 1986

CPO 21/3



Martin Leyland & Co
Planning Consultants
6A Lake Street
LEIGHTON BUZZARD
Bedfordshire
LU7 8RT

Your reference

Our reference

T/APP/A1910/C/85/2004/P6

Date A/85/030565/P6

26 MAR 86

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEALS BY SHAW BROTHERS
LAND ADJOINING 129 LONDON ROAD, MARKYATE

1. I have been appointed by the Secretary of State for the Environment to determine the above appeal against an enforcement notice issued by the Dacorum District Council and against a refusal of planning permission by that Council concerning the above-mentioned land. I held an inquiry into the appeals on 4 February 1986. I have considered all the representations made by you, by the Council and by the Markyate Parish Council and also those made by interested persons and I inspected the site on the same day.
2.
 - a. The date of the notice is 15 May 1985.
 - b. The breach of planning control alleged in the notice is the making of a material change of use in the land from a use for residential purposes to use for the parking and storage of vehicles.
 - c. The requirements of the notice are the discontinuance of the use of the land for the parking and storage of vehicles.
 - d. The period for compliance with the notice is 3 months.
 - e. The appeal was made on the grounds set out in Section 88(2)(a) and (h) of the 1971 Act as amended.
3. The development for which planning permission was refused is the making of a change of use in the land to a vehicle parking area.
4. The appeal site forms part of a wedge of land, owned by the appellants, located between the A5 Markyate Bypass to the north-east, London Road to the south-west, and a short link road between the two to the north-west, in open countryside outside and to the south-east of the built-up framework of the village of Markyate.
5. The site is bounded on all sides by a tall closeboarded fence. Outside this fence, a mature hedgerow fronts the A5, and there are newly planted hedges of fast growing conifers on the other sides. The long closeboarded gate opens outwards across London Road. The site contained 18 damaged cars and a forklift truck.

6. To the north-west of the site is the dwellinghouse, 129 London Road, in which one of the Shaw Brothers lives. Beyond the dwellinghouse is a yard (The Yard) enclosed similarly to the appeal site, although the conifers outside the fencing are more mature and the double gates open inwards. Within the yard is a large building, adjacent to the dwellinghouse, containing offices and a vehicle repair workshop. There is also a caravan, used as a staff room by drivers. At the time of my visit there were 10 vehicles in the yard, 2 of them private cars, 2 of them lorries being repaired.

7. On the other side of the site, to the south-east, is a triangle of land also in your clients' ownership. This triangle has been grassed. Along both road frontages are mature hedgerows. Beyond and beside part of this triangle, at the head of the London Road cul-de-sac, is an area of carriageway used by the highway authority for the storage of chippings.

8. The site lies within the rural area between the Metropolitan Green Belt, which is defined in the adopted Dacorum District Plan, and the Luton Green Belt. Policy 2 of the District Plan, which echoes the Hertfordshire County Structure Plan in this regard, provides that in rural areas beyond the Green Belt, planning permission will not be granted, except in very special circumstances, for development other than for specified purposes. The development the subject of both appeals is not for any of these specified purposes. Policy 2 also states that particular regard will be had to the likely effects of development on the landscape and environment of those rural areas.

9. It is intended to submit proposed alterations to the Structure Plan to the Secretary of State in April 1986. One of the proposed alterations is to extend the Metropolitan Green Belt to link it with the Luton Green Belt. The appeal site would be included in the proposed extension. The proposals have been placed on deposit and it was agreed that stage (b) set out in paragraph 1.12 of the Memorandum on Structure and Local Plans accompanying the Department of the Environment's Circular 22/84 has been reached. The proposed alterations must therefore be accorded appropriate weight.

10. Your clients operate a vehicle breakdown and recovery business. Their own vehicles are stored, maintained and operated from the yard. When a recovered vehicle needs only minor repairs, these are carried out at the yard. However, in the case of vehicles which are so badly damaged as to be written off for insurance purposes, these are stored on the appeal site, but, because they do not belong to your clients and are awaiting inspection by the relevant insurers, they are not stacked on top of each other. They may remain at the appeal site for up to 4 weeks before being taken away for disposal.

11. Having regard to the rural development policy background, my inspection, and all the matters raised at the inquiry, I consider the main issue in the appeals on ground (a) and under Section 36 to be the effect of the use of the site for the storage and parking of vehicles on the rural landscape and character of the area.

12. You argue that, because of the erection of the fences and the additional tree planting that has taken place, the appearance of the entrance to the village has been improved and that the impact of the storage element of the business has been reduced to such an extent that it is not noticeable to the passing motorist. However, on approaching the site along the A5 from either direction, and from Old Watling Street, on much higher ground to the north-east, the site and the yard are clearly visible, and their intrusion into the countryside south-east of the village is marked. In addition, the screening itself, being of high closeboarded fencing and fast growing conifers, instead of indigenous vegetation, draws attention to the intrusive alien nature of the site and activities carried on there.

13. Originally, your clients' business was located in Hicks Road, in the centre of the village. Hicks Road is a busy road and bus route. That site was very small and cramped. Difficulties arose when manoeuvring breakdown or damaged vehicles on to that site. Also, the movement of vehicles through the village and the storage of damaged cars at Hicks Road had a significant impact on the amenities of local residents.

14. Your clients acquired the appeal site and adjoining land. In December 1979, planning permission was granted, for a limited period of 2 years, for the use of the yard for the storage of vehicles. In 1981, your clients sought a permanent permission and eventually, in 1983, following investigations into the availability of 4 alternative sites, a personal planning permission was granted for a vehicle parking area, repair shop and office at the yard. At the same time, your clients entered into a Section 52 Agreement with the Council in which your clients agreed not to use the Hicks Road site in connection with their business. In addition, in that agreement, your clients covenanted not to park, store, manoeuvre, load or unload any vehicle other than within the yard. The use of the yard was also governed by conditions imposed on the planning permission.

15. The triangle of land adjacent to the site, with its tall hedges and hedgerow trees, gives an indication of the previous appearance of the site which, although it formed part of the garden of No 129, presented a generally rural appearance. While I accept that there is no loss of agricultural land, nevertheless, the site forms part of an important gap in the sporadic development along the Ver Valley to either side of the A5 between Markyate and M1 junction. You acknowledge that the development of the yard was treated as an exceptional case in permitting an intrusion into the primarily open countryside round the village. In my view, the development of the appeal site forms a further intrusion into the countryside, representing a physical expansion of your clients' business and a further incremental encroachment along the A5, tending to link and consolidate the existing sporadic development there.

16. You say that the development of the appeal site is necessary, not for the expansion of your clients' business, but for greater convenience and efficiency in its operation: this need only emerged as a result of working experience following the grant of the 1983 permission and the relocation of your clients' business to the yard. However, the Council point out that your clients were operating at the yard and the appeal site during the investigations into alternative sites and during the negotiation of the Section 52 Agreement. I am therefore not convinced that the alleged need for the development of the appeal site was not obvious to your clients before the grant of the 1983 permission. While I accept that, as presently organised, the dual use of the yard by both damaged vehicles and your clients' own vehicles would on occasion give rise to a degree of conflict, I am not satisfied that re-organisation of operations within the yard would not enable your clients to comply with the conditions imposed on the 1983 consent and the covenants set out in the Section 1952 agreement. In addition, the environmental problems which led to an exception being made in the case of the yard, do not apply to the further extension of your clients' business into open countryside by the use of the appeal site.

17. I have considered the impact of the development and the exigencies of your clients' business in the light of the advice contained in the relevant current circulars, and conclude that the use of the appeal site for the parking and storage of vehicles causes demonstrable harm to interests of acknowledged importance, which is not outweighed by your clients' needs.

18. The Council is concerned about precedent. I think it is likely that the development would set a precedent for development both of the adjoining triangle and of other parcels of land along the A5, with unacceptable cumulative effect on the sensitive rural character of the area.

19. In relation to ground (g), you say that in order to re-organise the yard so as to accommodate all operations there and so as to be able to clear the appeal site, a period of 6 months would be necessary. This seems to me to be reasonable in all the circumstances of this case, and I shall therefore vary the notice accordingly.

FORMAL DECISION

20. For the above reasons, and in exercise of the powers transferred to me, I hereby vary the period for compliance with the enforcement notice to 6 months, and, subject thereto, dismiss your clients' appeals, uphold the notice, and refuse to grant planning permission on the application deemed to have been made under Section 88B(3) of the Act.

RIGHT OF APPEAL AGAINST DECISION

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

I am Gentlemen
Your obedient Servant

G. J. Bowman.

MRS G J BOWMAN MA(Cantab) Barrister
Inspector

ENC