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26 SEP 1980

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Council ref: T.415/ED/4/0262/80E

Messrs Stimpson Lock & Vince

Chartered Surveyors

53 Marlowes

HEMEL HEMPSTEAD

Herts

HP1 1LA

Your reference

PWF/LKK

Our reference

T/APP/5252/C/80/732/G4

Date

25 SEP 1980

081872

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9

APPEAL BY RAY CROCKER METALS

LAND AND BUILDINGS AT 38/40 LAWN LANE, HEMEL HEMPSTEAD

1. I refer to this appeal, which I have been appointed to determine, against an enforcement notice served by Dacorum District Council concerning the above-mentioned land and buildings. I have considered all the representations made by you and by the Council, and also those made by interested persons. I inspected the site on 8 September 1980.

2. a. The notice is dated 16 January 1980.

b. The breach of planning control alleged is the making of a material change in the use of the said land and of the buildings situate thereon to a use for the purpose of storage, sorting and sale of scrap metals including secondhand parts of motor vehicles.

c. The requirements of the notice are to discontinue the use of the said land for the purpose of storage, sorting and sale of scrap metals including second-hand parts of motor vehicles.

d. The period for compliance with the notice is 6 calendar months.

e. The appeal was made on grounds 86(1)(a) and (b).

3. In summary, the notice is being varied but upheld, and planning permission is not being granted.

Ground (b)

4. The facts not in dispute are that No 38 is a single-storey building on the road frontage with an established use as a shop. Behind it is a 2-storey hipped roof building for which your client, in March 1979, applied for planning permission for change of use from residential to sorting and storage of scrap metal, which was refused. Your clients occupied the site before April 1973, having applied in that year for registration under the Scrap Metal Dealers Act 1964. At the site inspection No 38, the shop building on the frontage, contained some car spaces, such as

secondhand radiators, and a number of old blow lamps, which might perhaps be regarded as "bygones", were displayed in a side window. There were also a number of old 40 gallon oil drums. Also in the shop was a substantial machine shear for cutting copper or similar pipes, leaving the end of the pipe closed and flattened, and a large wooden bin containing scrap metal and offcuts of old copper piping. Another machine in the shop was a cable shear, designed to extract the metal core from the outer insulation of a cable. There was also a substantial weighing machine, and a battery charger much larger than that used for private cars, which was said to be used for charging the battery of a fork lift (which itself was stored in the garage building on the south side of the premises. Further into the shop were some used copper hot water cylinders. In the garage, as well as the fork lift, which took up most of the space, were quantities of scrap metal, and scrap, or possibly secondhand, batteries. In the space to the rear of 40 were a few steel sinks and draining boards, said to be for sale secondhand. On the first floor of 40 were some more sinks, a small stack of flattened zinc scrap, and the core of an old heat exchanger or cooling radiator. The sign over the shopfront reads "Ray Crocker Metals - Scrap Metal Merchants - Cash Buyers of Copper, Brass, Bronze, Gunmetal, All Turnings ETC ETC - Cash Buyers of Lead, Batteries, Zinc, Solders, Aluminium ETC ETC" together with the address and telephone numbers for day and evening use.

5. You argue that 38 has been a shop for many years, with a variety of different trades using it. Your clients use it for the sale of secondhand goods such as water tanks, hot water cylinders and spare parts for engines and motor vehicles. You also say that they purchase such articles from the public, together with certain scrap metals such as redundant plumbing and similar articles. The sale of scrap metals and secondhand car parts is not in itself a material change of use, whilst sorting and storage of these goods is part and parcel of the trade, and, indeed, any shop user will store commodities for sale.

6. The Council accept that 38 has been used as a shop for many years and that your clients use it for the sale of secondhand goods. But they also consider that the premises are being used for special industrial purposes, sales being ancillary to that use.

7. By special industrial purposes I assume that the Council mean recovery of metal from scrap, Class VI (iii) of the Schedule of the Town and Country Planning (Use Classes) Order 1972. From the facts, and what I saw of the site I think this is so. At the time of my visit the premises, apart from the garage, were rather empty. Nevertheless, the presence of machinery for cutting scrap tubing, for recovery of the core from cables, the weighing machine and a considerable proportion of what could only be scrap rather than goods for retail sale to ordinary members of the public, lead me to the conclusion that the principal use of the premises is recovery of scrap - and indeed the sign over the shopfront appears to confirm this use. This is certainly not a shop use, a shop being defined in the Use Classes Order as a building used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods by retail. It appears to me that the primary purpose of the premises is the purchase of scrap, which is then subjected to an industrial process - the breaking up or demolishing of any article, to use the words of the Use Classes Order. The assembled scrap is then stored for sale, not to ordinary members of the public but to specialist businesses. But there is also a continuing existing shop use, in that used but serviceable metal goods including car spares are bought in, rather than dismantled or stripped on the premises, and sold retail to ordinary members of the public. I conclude

therefore that the recital of the notice, and the requirements, need alteration to safeguard the existing shop use of No 38, and this can best be done by deleting reference to secondhand vehicle parts. But subject to this variation there has been a material change of use requiring planning permission which has not been obtained. Your clients' appeal therefore fails on ground (b).

Ground (a)

8. Turning now to ground (a), I note that although there were objections to your application for change of use of No 40, the loss of residential accommodation was not one of them, and I do not consider it further. It seems to me that the principal issue is whether the use alleged in the notice as varied is likely to have any ill effects on the surrounding area. In the approved County Development Plan the area is allocated primarily for industrial purposes, and I have no information on the applicability of the Hertfordshire Structure Plan, approved in September 1979. In the non-statutory "Hertfordshire 1981" the area is allocated for business, civic, cultural or other special uses for the town as a whole. It appeared to me that although there were industrial uses in the area to the west of Lawn Lane and behind the road frontage, the frontage itself was mixed shops and offices, with a public house adjoining. Opposite is a substantial residential area. Although you suggest that this part of the road is rather rundown, it appeared to me to be a prominent part of the street, the appearance of which would not be too difficult to improve. It is difficult if not impossible for a scrap business not to appear unsightly and untidy. The Council's photographs 3 and 4 of May 1979 show clearly that your clients' business is no exception, although I note that the site has been tidied since then. In my view the use is inappropriate in this prominent part of the street. If it were to be permitted I see no effective way, by means of conditions, of ensuring that the appearance of the site would be maintained to a satisfactory standard. The appeal therefore fails on ground (a).

9. Although grounds (f) and (g) have not been raised, I am satisfied that the requirements of the notice and the period for compliance are adequate. On the latter point, this decision must clearly have some effect on your clients' business, although it does not deprive them of the right to use the shop, No 38, for retail sales. The period allowed should be enough to enable them to make the necessary changes in their business activities, or to find alternative premises although I appreciate that this has so far proved difficult. I have also considered all the other matters raised in the written representations, but can see no reason to reach any other decision.

FORMAL DECISION

10. In exercise of the powers transferred to me and for the reasons given above I hereby direct that the recital of the notice, and the requirements of the notice be varied by deleting all the words after the word "metals" in paragraph 1 (iii) and in paragraph 2 of the notice. Subject to this variation I dismiss your clients' appeal, uphold the notice and refuse to grant planning permission on the application deemed to have been made under Section 38(7) of the Act of 1971.

RIGHT OF APPEAL

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

I am Gentlemen
Your obedient Servant



E D CREW CB DSO DFC MA FRAeS
Inspector

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