

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To
 Berkhamsted Tool Hire
 9-11 High Street
 Berkhamsted

..... Change of use to storage of liquid petroleum Gas (LPG)

 at ... New Lodge, Bank Mill Lane, Berkhamsted

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 31st March 1984 and received with sufficient particulars on 3rd April 1984 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 within the Metropolitan Green Belt on the Approved County Structure Plan and 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 proposed development would introduce an undesirable commercial activity to the detriment of the character of the area.

Dated 7th day of June 19 84

Signed..... *W. B. B. B. B.*

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

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Berkhamsted Tool Hire Ltd
9-11 High Street
BERKHAMSTED
Herts
HP4 2BX

Your reference

Our reference

T/APP/A1910/A/84/023290/P5

Date

-7 JUN 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO:- 4/0441/84

1. As you know I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision of the Dacorum District Council to refuse planning permission for the storage of liquid petroleum gas cylinders on land at New Lodge, Bank Mill Lane, Berkhamsted. I held a local inquiry into the appeal on 23 April 1985. The requested use is already taking place and I will therefore treat your appeal as being for permission for it to continue under Section 32 of the Town and Country Planning Act 1971.
2. The use for the storage of liquid petroleum gas cylinders was the subject of a previous appeal, dismissed by the decision letter dated 26 January 1984. At that earlier appeal the Inspector considered that in the circumstances of the case there were grounds for allowing the use to continue, at least for the present and on a personal basis. However because of road safety hazards caused by traffic associated with the use he considered that the appeal should be dismissed. At the current inquiry you indicated that your grounds of appeal had not changed from that earlier appeal.
3. From my inspection of the appeal site and its surroundings and from the representations made in writing and at the inquiry I consider the main issues in determining your current appeal are firstly; the impact of the use on the character and appearance of the area, bearing in mind the underlying policies for the control of development in the green belt; and secondly, whether the vehicular access arrangements are satisfactory.
4. The appeal site comprises an area of fenced-off land with an inner compound used for the storage of the cylinders. It forms a small part of a much larger holding of land extending both to the east and west of New Lodge. The western portion, containing the appeal site, is quite rundown and unsightly in appearance, containing a large number of old buildings and pieces of machinery and vehicles, many in varying states of decay. This holding bounds the north side of the A41 and is in a prominent position on the eastern approaches to the town.
5. Since the previous appeal the Dacorum District Plan has been adopted by the council and this shows the site to be within the green belt. Policies within the Hertfordshire Structure Plan and that District Plan contain a strong presumption against development within the green belt, except in very special circumstances. It is the council's contention that your proposals do not fall within any of the categories allowed for as exceptions to those policies. Prior to the adoption of

the District Plan the appeal site had been designated for public open space. This designation now no longer applies to the site and accordingly the council indicated at the inquiry that it had no proposals to acquire the land for that purpose.

6. In my opinion the use is contrary to the policies for the control of development of green belt land and it does not fall within any of the exceptions allowed by those policies to the presumption against development. I am cognisant of the efforts of the council, through a number of enforcement notices served, over a number of years to control the uses on the larger holding. Bearing in mind its important position within the green belt on this approach to the centre of Berkhamsted I consider that the council's policies are deserving of support and that a permanent use of the appeal site for storage of liquid gas cylinders would be unacceptable.

7. However, I see no reason to differ from the previous Inspector's opinion that this particular use in this location does not cause any significant harm to the appearance or character of the area. The compound cannot be readily seen from the A41 nor from properties in Bank Mill Lane to the north. Even from within the holding it forms in my view quite an insignificant feature among the many buildings and bits and pieces of machinery in the vicinity. I understand from your representations your need for this storage area and its importance to the business as a whole and I heard too your efforts to try and locate an alternative site in the area acceptable to both yourselves and to the council, and the latter's hope of finding a suitable site. In the particular circumstances of your case I consider that there are grounds for allowing the use to continue but only on a temporary and personal basis. Such a permission would allow a search for a new site to be undertaken and in recognising the difficulties that this may entail I propose that any such permission should be for a period of 2 years.

8. The appeal site currently has 2 accesses onto Bank Mill Lane; one at the western tip of the holding and the other opposite the junction with Bank Mill. Since the previous inquiry the owner of the holding has given his authorisation for you to remove such vegetation as might obscure the free and adequate visibility of traffic in Bank Mill Lane at the entrance to the property. I observed that at the latter access point there is evidence of some fairly substantial vegetation having been removed. I note, too, that the council has not objected to the proposed use on highway grounds or access grounds and as a result of the removal of the vegetation and bearing in mind the low traffic flows along Bank Mill Lane and from that generated by your use visibility at this access is, in my opinion, at this time, adequate. Although the land within the visibility splay is not under your direct control I consider that in the circumstances of this case this access is not so unsatisfactory as to warrant refusal of your appeal. The access at the western end of the holding has much poorer visibility but is I understand not used by yourselves. Accordingly, in approving your appeal I propose to restrict access for vehicles calling at the appeal site solely to the access point opposite Bank Mill.


9. I have considered the views expressed by the Town Council and a number of local residents. I note the involvement of the council's Environmental Health Officer in this case and I am satisfied on the evidence before me that the retention of this use for a further temporary period does not present a threat to public safety. I am aware of the concern expressed generally in the representations about the impact of activities being carried on within the wider holding, but these are not matters before me at this appeal and I am satisfied that the continuation of use of the appeal site for storage of cylinders for a further period, up to 2 years, will not cause significant loss of amenity to local residents. I have taken into account all the other matters raised in the representations but these do not outweigh the considerations that have led me to my decision.

10. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the storage of liquid petroleum gas cylinders on land at New Lodge, Bank Mill Lane, Berkhamsted in accordance with the terms of the application (No. 4/0441/84) dated 31 March 1984 and the plans submitted therewith, subject to the following conditions:-

1. The use hereby permitted shall be carried on only by Berkhamsted Tool Hire Limited.
2. The use hereby permitted shall be discontinued and the land restored to its former condition on or before 2 years from the date of this letter.
3. Means of vehicular access to the site shall be from the access point opposite Bank Mill only.

11. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant



DAVID FENTON BA(Hons) MSc DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANTS

- | | |
|---------------|---|
| Mr R A Waller | - Director; Berkshamsted Tool Hire Limited. |
| Mr V J Spratt | - Director; Berkshamsted Tool Hire Limited. |
| Mr Allen | - Owner of appeal site. |

FOR THE PLANNING AUTHORITY

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| Miss A Burton | - Assistant Solicitor, Dacorum Borough Council. |
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She called:

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| Mr D Noble BA(Hons) MRTPI MIAS
MRSH | - Principal Assistant Planner,
Dacorum Borough Council. |
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DOCUMENTS

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| Document 1 | - List of persons present at the inquiry. |
| Document 2 | - Council's letter of notification of inquiry. |
| Document 3 | - Replies received to (2) above. |
| Document 4 | - Petition and letter of support, handed in by appellants. |
| Document 5 | - Correspondence from Mr Allen and Mr Lemon, September 1983. |
| Document 6 | - Letter from Shell Agent, 11 October 1983. |
| Document 7 | - Letter from Environmental Health Officer, 21 August 1984. |
| Document 8 | - Letter dated 10 September 1984 from appellants. |
| Document 9 | - Letter from Council dated 21 January 1985. |
| Document 10 | - Letter dated 2 April 1985 from appellants. |
| Document 11 | - Planning history of appeal site and surrounding land. |
| Document 12 | - Copy of decision letter A/83/005737/PE1, dated 26 January 1984. |

PLANS

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| Plan A | - Application Plan. |
| Plan B | - Location Plan showing Green Belt boundary. |