



The Planning Inspectorate

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Messrs Moss Products (Plastics) Ltd Your Ref: RH/TC/2447/360
2 Buckwood Road
Markyate Council Ref: 4/0763/92EN
Hertfordshire PLANNING DEPARTMENT
AL3 8JA DACORUM BOROUGH COUNCIL Ref: T/APP/C/92/A1910/621007/P6

Ref.					Ack.	
DoP	ICPM	DP	TS3	RC	Admin	File

19 OCT 1993

Received 20 OCT 1993

Dear Sirs Comments

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT 2 BUCKWOOD ROAD, MARKYATE

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Dacorum Borough Council concerning the above-mentioned land and buildings. I have considered the written representations made by you and the Council and also those made by interested persons and inspected the site on 23 August 1993. An application for an award of costs has been made by you against the Dacorum Borough Council. This is the subject of a separate letter.

2. (1) The notice was issued on 15 May 1992.

(2) The breach of planning control alleged in the notice is the failure to comply with condition numbers 4, 6 and 7 subject to which planning permission (No 4/0077/91FL) was granted on 14 March 1991 for the erection of a single storey extension and alterations to parking.

(3) The conditions in question are as follows:

CONDITION 4

All planting, seeding or turfing comprised in the approved details of landscaping, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased should be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation, and for the purposes of this condition a planting season shall be deemed to commence in any one year on 1 October and to end on 31 March in the next following year.

2. (6) The periods for compliance with these requirements are as follows:

(i) 28 days

(ii) 2 months

(iii) 2 months

(iv) 2 months

(v) 6 months

3. Your appeal was made on grounds (b) (f) and (g) as set out in Section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991.

that is to say:

(b) that (in respect of any breach of planning control which may be constituted by the matters stated in the notice) those matters have not occurred;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by the matters stated in the notice or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with Section 174(9) falls short of what should be reasonably allowed.

4. The ground (b) appeal is based on your submission that the matters alleged in the notice have not occurred. With regard to Condition 4 there is no evidence upon which I can reasonably conclude that the condition has been complied with in all respects. Even accepting that the planting did take place as required the condition of the planter at present is evidence of a failure to comply with the second part of the condition and therefore, as a matter of fact, the allegation in the Notice relating to Condition 4 is correct.

5. There is evidence by way of photographs and reports of the local planning authority that goods, materials and refuse have been stored outside the approved building. You have not disputed this evidence which shows, as a matter of fact, that there has been a use of the yard area for purposes in breach of Condition 6.

6. It appears from your statement of facts that you occupied the extension in March 1992 and although you argue that the requisite number of spaces were provided at that time for car parking needs a photograph dated 10 July 1993 shows an area in the north west of the property to be in use for the storage of packing cases and waste materials. Clearly therefore there has been a breach of Condition 7.

condition has been met. Condition 7 requires "arrangements" for vehicle parking shown on the approved plan to be provided. As I saw at the site inspection the area has been surfaced and requisite spaces have been demarcated on the site and to that extent there has been compliance with the condition. The requirement of the condition is that "arrangements" for vehicle parking as shown on Plan Reference M001/210, approved under reference 4/0077/91 FL, be provided, but the condition makes no mention of the surface treatment of the parking area. The Concise Oxford Dictionary describes the word "arrangement" as "arranging or being arranged" and the word "arrange" is described as "put into order". A reasonable interpretation of the requirements of the condition that "the arrangements" for vehicle parking shall be provided is in my view that the spaces earmarked shall be arranged and by some method identifiable on the ground. I do not believe that the provision of "arrangements" can be construed as requiring the surface areas to be constructed in accordance with the detailed plan. I note that the planning permission reference 4/0077/91 FL did not have a condition which required the development approved to be carried out in its entirety in accordance with drawing M001/210. Furthermore the reason for condition 7 is not expressed in terms of visual factors but solely in order to provide adequate and satisfactory off-street parking facilities. It is my judgement that requirement (ii) exceeds what is necessary to remedy the breach of planning control, namely compliance with Condition 7. I am satisfied that arrangements for vehicle parking have been provided and I shall delete all references in requirement (ii) to surfacing.

14. Since the planning permission did not contain a condition requiring the approved works to be undertaken I fail to see in what respect requirement (iii) is sought. It does not appear to relate to any of the conditions enforced against and in my view has no place in part 5 of the notice. It will be deleted. Requirement (iv) has already been implemented and therefore can be deleted but requirement (v) is valid in view of the terms of Condition 4.

15. The ground (f) appeal succeeds in part, particularly with regard to the surfacing of the car parking area and the construction of the planter.

16. Under the ground (g) appeal the period specified for compliance with requirements do not need varying in my view because in the case of requirements (i), (ii), (iii) and (iv) the necessary works have already been implemented and in the case of (v) the six months period coincides with the planting season specified in Condition 4. The ground (g) appeal fails.

17. I have considered all the matters raised in the representations but none outweigh the basis of my decision.

FORMAL DECISION

18. In exercise of the powers transferred to me and for the reasons given above I hereby direct that the notice be varied in Part 5 by the deletion of sub-paragraphs (i), (ii), (iii)