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## DEPARTMENT OF THE ENVIRONMENT

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5 NOV 1986

File Ref.

Ref. No.

C. 0. 5/11

C. 0. 5/11

 Messrs Brooke  
 Solicitors  
 84 Kingsway  
 London  
 WC2B 6AC

Blain Russell

Ack.

Your reference

C.P.O.

D.P.

D.C.

B.C.

Admin.

File

CVC

Received

- 5 NOV 1986

Date

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Comments

Gentlemen

 TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
 APPEAL BY DEPVALE PROPERTIES LIMITED  
 APPLICATION NO: 4/0890/85

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. The appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the erection of workshop units for light industrial purposes on land off Stratford Way, Hemel Hempstead. I held a local inquiry into the appeal on 14 October 1986.

2. From my inspection of the site and surroundings, and from my consideration of all the representations made, I am of the opinion that the decision in this appeal rests primarily on whether the proposed development would adversely affect the residential amenities of persons living in Stratford Way, and cause a road safety hazard.

3. The appeal site, which extends to about .8 ha, is a Section of the former track and embankments of the Harpenden Branch railway line, which closed many years ago. It has become heavily overgrown and is virtually impenetrable in places, taking into account the very considerable differences in levels. The land, which your clients purchased last year, is situated adjacent to the northern side of the main London (Euston) to Scotland electrified railway line a short distance to the east of Hemel Hempstead station, but it is not connected to it in any way as there is a small, vacant area of land at the western end of the site, which is not in your clients' possession. Most of the northern side of the site adjoins land owned by the Gas Board, and on the eastern side it is enclosed by land belonging to the Electricity Board.

4. The western end of the site, which is now woodland, was also included in previous proposals for development made by your clients, but it is no longer intended to be disturbed in any way. It fronts on to the southern side of Stratford Way, an entirely residential cul-de-sac running directly off the southern side of the A41 Trunk Road. There is a right-angled bend in Stratford Way where there is a gateway into the site. It is proposed to construct a new access road into the appeal site from this

entrance, which is at present obstructed by 2 trees as it has not been used for many years. Obtaining access in this manner would of course involve using only that section of Stratford Way connecting the site with the A41 Road, but there are 15 houses fronting on to it.

5. There is an existing road within land owned by the Gas Board which runs up from the A41 to the northern boundary of the appeal site near the eastern end, although there is no actual means of entry into the site, and there is another road that nearly reaches the eastern end of the appeal site within the land owned by the Electricity Board, which is reached from Whiteleaf Road (an access road serving only commercial premises to the south of the A41 Road). In fact there is a public footpath separating the site from the Electricity Board land, but it is bridged over part of the Gas Board land, and the railway line to the south, and could be equally well bridged over an access road into the eastern end of the site. I also noted during my inspection that it would be feasible to construct an entirely new access road to the other end of the appeal site across the western part of land in the Gas Board's ownership some of which is at present being used as a car park. However I understand that neither the Gas Board nor the Electricity Board are prepared to allow your clients to obtain access to the appeal site across their property. I also understand that the Gas Board are in legal dispute with your clients about the position of a gas main which at present runs across part of the appeal site. While legal clarification of the situation, and the possible re-alignment of the pipe-line, would be necessary before the proposed development could take place as proposed, I do not consider this need inhibit a decision on the planning merits of the proposal before me.

6. The council have not objected to the actual use of the appeal site being proposed (ie the erection of some 1904 sq m of light industrial floorspace in 18 units - the revision on which the application was determined). As I mentioned above, there were originally objections to the proposal on the grounds that use of the western part of the site would be harmful to the residential amenities of the dwellings opposite in Stratford Way, but modifications have overcome these problems. I do not consider the felling of some of the trees at the western end of the site in connection with the construction of the internal access road and the provision of parking space would - as was suggested to me by the residents' spokesman - so increase the noise from trains on the adjacent railway line as to be unduly harmful to the amenities of persons living in Stratford Way. Thus the only remaining objections to the proposed development are to the means of access via Stratford Way. These are twofold; first that the use of an exclusively residential road by industrial traffic would harm the amenities of persons living there, and second that the visibility splays at the junction of Stratford Way and A41 are sub-standard, with the result that its increased use would be prejudicial to road safety.

7. The specific adverse effects on the residential amenities that might occur are the additional noise, disturbance, and possibly exhaust fumes created by the traffic associated with the industrial use of the site, the further inconvenience caused by

increased traffic wishing to turn on to the A41 Road during peak hours, and the possible additional danger to pedestrians, and particularly children, from commercial traffic that at present has no reason to enter a residential cul-de-sac, other than to make casual deliveries or provide some other service to the residents. I will consider these aspects separately below.

8. In my view the second reason for refusal is not of such magnitude that it would necessitate refusing permission in the absence of any other objection. The visibility distances obtainable along the A41 are sub-standard from points 9 and 4.5 metres back from the edge of the carriageway, but at only 2-2.5m back are sufficient to enable vehicles to turn out with reasonable safety bearing in mind that the road is subject to a 30 mph speed limit and that its alignment, width, and the presence of a traffic roundabout only a short distance to the west make it unlikely that vehicles will be overtaking, or exceeding the speed limit by any great amount in the vicinity of Stratford Way. The flow of traffic on the road is heavy during the rush hours, but this of course reduces the speed and adds to safety. The amount of traffic is likely to reduce very considerably when the new bypass road is built, but I do not consider that this materially affects my conclusion one way or the other. However I accept the council's view that the junction is by no means ideal to serve any increase in traffic, especially any heavy, slower-moving vehicles. This conclusion takes into account the point raised by an interested person that long vehicles might mount the footway when turning in and out of Stratford Way as the kerb radii at the junction are small, but the number of vehicles of this type would probably be quite small, and the road width at the junction is more than 8.5 m.

9. Your client's expert witness on highway/traffic matters produced evidence to support your clients' view that the increase in traffic using Stratford Way would only be modest and would not have unacceptable effects on traffic movement or on the safety of residents. Based on estimates of traffic generation in the GLC publication "Traffic Generation Users Guide and Review of Studies" (2nd Edition), it is postulated that there would be some 40 car journeys to and from the site per day by person working there, with nearly half these movements occurring in the peak hour. This compares with about 10 cars in the peak hour at present, and a measured flow of 21 cars between 0800-0900 hours at the Kents Avenue Industrial Estate at Apsley, a short distance along the A41 to the east. That estate has 2044 sq m of floorspace and is thus comparable in size to the development being proposed. The figure is of course only an estimate as it is not known how many persons would actually work at the appeal site. The number of commercial vehicle trips per day is estimated to be in the range 13-66 depending on the actual uses of the units, and the number of heavy vehicles would probably only be 1 per day, with medium sized commercial vehicles movements ranging from 3-20. There would also be some commercial traffic associated with customers, travellers and others visiting and leaving the site, and this is estimated at about 76 per day. It is assessed that the total peak hour traffic generation would be 38 in the morning and 35 in the evening. These figures are slightly higher than those measured at Kents Avenue.

10. It seems to me that while the estimates offer an indication of the average traffic pattern for a site of the type and size proposed, their spread shows how they can vary in different circumstances. They cannot of course take into account what might happen exceptionally. Where, as in this case, any pronounced deviation - for instance an increase in the flow of heavier delivery vehicles - might have a serious effect, it seems to me that it would be unwise to place too much reliance on the figures, even though they are broadly substantiated by measurements at the Kents Avenue Industrial Estate.

11. The above estimates were used by your clients' expert witness on acoustics to assess the likely effects of noise from the additional traffic using Stratford Way. The properties at the northern end of the road are of course already subject to considerable traffic noise from the A41 Road, and the ambient levels, as measured, are in the range 49/52.5 dB(a). While the dwellings at the southern end are less affected by this noise (the ambient levels are only 44/48 dB(A), they suffer more from the noise caused by the passing of freight and high speed trains on the busy railway line. The L10 noise levels corresponding to the above ambient levels are in the range 68/71.5 and 53.5/64 (as shown in Document 5). Using a traffic flow estimate of 40 vehicles per hour, which is regarded as the likely maximum, the predicted L10 value (1 hour) would be 59.5 dB(A), which would be a maximum increase of 6.5 dB(A) at the top of Stratford Way. The types of vehicles, the road gradient and traffic speed have been taken into account. There would be no effect on properties near the A41 junction, and even at the top the additional noise would not produce an unsatisfactory effect inside the affected dwellings with windows closed as the increase would be marginal, bearing in mind the existing environmental conditions already being experienced.

12. I would not question this specialist evidence, but there could of course be significant variations in the traffic pattern as I have mentioned above, and there can be no doubting that Stratford Way would be a noticeably less pleasant place to live with the introduction of commercial activity and roughly double the present daily traffic flow - albeit mainly cars, small vans and medium-sized lorries. The environment is already affected by the noise from the A41 Road and the railway, and I can well understand the misgivings of residents about the effects of extra noise, as well as the other harmful effects envisaged that I have mentioned in paragraph 7 above. The latter are not readily quantifiable as they relate to the principle of a quiet residential cul-de-sac becoming the sole means of access to a sizeable industrial area. This leads to worry about the safety of children playing in the street, the congestion likely to be caused on the occasions when cars are parked in the road where 2 commercial vehicles wish to pass, and the possibility of further delays in turning on to the A41 Road in the rush hours. However I do not consider these latter points would in themselves justify refusing permission.

13. Another point about the likely effect of noise was highlighted by the view put forward by the council about the need

to impose a condition, if permission were granted, to limit the hours of use of the workshop units. I fully appreciate your arguments against such a condition as the light industrial units should not, by definition, cause any harm themselves, and the restriction would seriously limit the activities of the occupiers. I thus do not consider such a condition could reasonably be imposed, but there is no other practicable way of exercising any control over the time that traffic might go to and from the site. If there were no limitation on working hours it is quite possible that heavy vehicles making deliveries would arrive late at night, or more probably very early in the morning having travelled from a distant point overnight. This might in fact happen anyway as drivers of supply vehicles might be unaware of the condition, even if it were imposed. Moreover vehicles frequently leave industrial estates very early in the morning if there is a long journey ahead, and any such traffic would seriously affect the persons sleeping in the houses fronting on to Stratford Way between the entrance to the site and the A41 Road. I thus do not consider it would be justified to ignore this possibility, which is so often mentioned by persons living in older residential streets serving industrial development when appeals are made in respect of proposals for the extension of existing industrial premises. Furthermore in this instance matters would be made worse than otherwise because of the quite steep gradient of Stratford Way up to the site, which would have to be climbed by heavily-laden lorries making deliveries. This could add to exhaust gas emissions, and even though the effect of the gradient has been taken into account in the assessments made by your clients' expert witness on acoustics, the noise would be likely to be most disturbing in otherwise relatively quiet conditions that would exist at night or early in the morning.

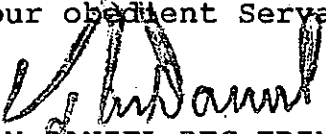
14. Unlike an interested person who spoke at the inquiry, I do not accept that new industrial development, especially light industry, should never be permitted in residential areas in accordance with the advice in Circular 22/80. I consider there is substance in your clients' view that there is a need for more workshop units for small businesses to start up in Hemel Hempstead in the light of the evidence given to me about the lack of any further land for such use on a planned basis, even though some piecemeal proposals may be made shortly. The proposed development would of course be in accord with the advice on encouraging small businesses in Circulars 16/84 and 14/85 (and the White Paper "Lifting the Burden"), as well as Circular 2/86, which is most important. I am thus very reluctant indeed to refuse permission for the proposal. However I am in little doubt that it would have a materially harmful effects on the residential amenities of the persons living in Stratford Way between the A41 Road and the entrance to the appeal site, which it would be impractical to overcome by the imposition of conditions if permission were granted. I regard this matter as being an interest of acknowledged importance, and I have thus reached the conclusion that it is necessary, on balance and taking into account all the various effects, to refuse planning permission for your client's proposal. However I would hope that it might be possible for some arrangement to be made about obtaining an alternative means of access to the site that does not involve using Stratford Way as I consider it most desirable

that the land in question be used for the purpose proposed.

15. I have noted all the various other matters raised in the representations, including your views on the comparability of the industrial units permitted at Kents Avenue, but although that estate can be reached via residential roads, it is also served by a purpose-built road from the A41, which is the primary means of access, and there is nothing else of sufficient substance to outweigh those considerations that have led me to my decision.

16. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen  
Your obedient Servant



J M DANIEL DFC FBIM  
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr Matthew Horton

of Counsel, instructed by  
Messrs Brooke Blain and  
Russell, 84 Kingsway,  
London WC2B 6AC.

He called:

Mr J Malamatenios

Managing Director of the  
Appellant Company.

Mr K Robinson BSc C Eng  
MICE MIHT DipTE

of Messrs F E Noble  
Associates, Consulting  
Engineers, 17 Berkeley  
Street, London W1X 5AE.

Mr P W Hines Associate  
ABA

Partner of Messrs W A  
Hines and Partners,  
Acoustic and Noise Control  
Consultants, 51A The  
Broadway, Stanmore,  
Middlesex HA7 4DJ.

Mr B Francis FRICS

Principal of Messrs  
Poulter and Francis,  
Chartered Surveyors, 57  
Marlows, Hemel Hempstead  
Herts, HP1 1LE.

FOR THE PLANNING AUTHORITY

Miss A Burton

Solicitor with Dacorum  
Borough Council.

She called:

Mr J E Knapp DipTP  
MRTPI

Principal Assistant  
Planner, Dacorum Borough  
Council.

Mr R M Scott BSc C Eng  
MICE

Assistant Chief Engineer  
(Highways and Support  
Services), Dacorum Borough  
Council.

INTERESTED PERSONS

Mr P Jackson

Local Resident,  
14 Stratford Way, Hemel  
Hempstead, Herts, HP3 9AS,  
representing other  
residents.

Mr P Benton

Interested Person,  
107 Piccotts End, Hemel  
Hempstead, Herts.

Mrs B A D'Souza

Local Resident,  
16 Stratford Way, Hemel  
Hempstead, Herts, HP3 2AS.

#### DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Copy of a letter sent by Dacorum Borough Council to interested persons informing them of the appeal and the inquiry.
- Document 3 - Copy of letter from interested person handed in at the inquiry, in addition to 21 received previously.
- Document 4 - Extracts from the Buchanan Report - "Traffic in Towns".
- Document 5 - Sound measurements and calculations made by the Appellants' Witness on Acoustics.
- Document 6 - Bundle of 15 documents handed in by the Appellants' Planning Witness.
- Document 7 - Extract from Hertfordshire County Structure Plan, as amended.
- Document 8 - Extract from Dacorum District Plan.
- Document 9 - 2 notices of refusal of planning permission in respect of the appeal site.
- Document 10- Extract from Ministry of Transport Advice Note - TA220/84.
- Document 11- Extract from Hertfordshire County Council document - "Residential Roads in Hertfordshire, 1982.
- Document 12- Hertfordshire County Council Standard Drawing No RR12.

#### PLANS

- Plan A - 3 plans accompanying the application subject of the appeal.
- Plan B - Plan of Stratford Way showing garaging and parking provision at the dwellings.
- Plan C - Land use map of area surrounding the appeal site.
- Plan D - Plan of Apsley showing site of unit workshops at Kents Avenue.



## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

## DACORUM BOROUGH COUNCIL

To Depvale Properties Limited      Poulter & Francis (Estate Agents and Surveyors)  
 c/o 57 Marlowes                      57 Marlowes  
 Hemel Hempstead                    Hemel Hempstead

Erection of unit workshop (outline)

at ... Stratford Way, Hemel Hempstead.

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 12th July 1985 and received with sufficient particulars on 15th July 1985 amended 2nd September 1985 and shown on the plan(s) accompanying such application.

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

- (1) In the opinion of the local planning authority the introduction of commercial traffic onto Stratford Way - a residential road, would prove severely injurious to the residential amenity of the area.
- (2) Visibility at the junction of Stratford Way and the A41 Trunk Road is below an acceptable standard, and the additional traffic generated by the proposal would create conditions prejudicial to highway safety.

Dated 5th day of September 1985

Signed



SEE NOTES OVERLEAF

P/D.15

Chief Planning Officer

#### NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.