

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/1269/93

R J Pidgeon
Commission for the New Towns
Glen House Stag Place
Victoria
LONDON SW1E 5AJ

DEVELOPMENT ADDRESS AND DESCRIPTION

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Stephyns Chambers, Marlowes, Hemel Hempstead

NON ILLUMINATED PROJECTING SIGN

Your application for *advertisement consent* dated 16.09.1993 and received on 17.09.1993 has been **GRANTED**, subject to any conditions set out on the attached sheet(s).

Director of Planning.

Date of Decision: 12.10.1993

(encs. - Conditions and Notes).



CONDITIONS APPLICABLE
TO APPLICATION: 4/1269/93

Date of Decision: 12.10.1993

1. This consent is granted for a period of five years commencing on the date of this notice.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992.

2. Any advertisements displayed, and any site used for the display of advertisements shall be maintained in a clean and tidy condition to the reasonable satisfaction of the local planning authority.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992.

3. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992.

4. Where an advertisement is required under the Town and Country Planning (Control of Advertisements) Regulations 1992 to be removed, the removal shall be carried out to the reasonable satisfaction of the local planning authority.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992.

5. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992.

6. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway (including any coastal waters) or aerodrome (civil or military).

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992.



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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Tollgate House
Houlton Street
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GEN 1374

17 MAR 1994
Council References:
4/1270/93EN & 4/1271/93EN
References:
T/APP/C/93/A1910/630454
T/APP/C/93/A1910/630455
Date:
15 MAR 94

Mr S C & Mrs L P Barton
47 Tower Hill
CHIPPERFIELD
Herts
WD4 9LJ

Dear Sir and Madam

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT 47 TOWER HILL, CHIPPERFIELD

1. I have been appointed by the Secretary of State for the Environment to determine your appeals against an enforcement notice issued by Dacorum Borough Council concerning the above land and buildings. I have considered your written representations and those made by the Council. I inspected the site and its surroundings on 25 January 1994.

2. (1) The notice was issued on 31 August 1993.
(2) The alleged breach of planning control is:-

Without planning permission, change of use of the land from use for residential purposes to mixed use for residential and use for carrying on the business of a carpenter and furniture manufacturer.

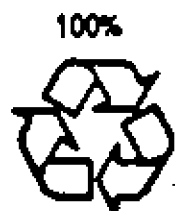
- (3) The requirements of the notice are:-

(i) Cease the use of the building as a carpentry/furniture workshop.

(ii) Remove the circular saw bench equipment.

- (4) The period for compliance is 12 months.

3. Your appeals are proceeding on ground (a) as set out in Section 174(2) of the 1990 Act, as amended by the Planning and Compensation Act 1991, namely that planning permission ought to be granted for the development that has occurred.



4. No 47 Tower Hill lies within a line of houses, alongside the main road between Chipperfield and Bovington. A group of buildings, at the bottom of the long rear garden, are in use as a workshop and as an office. Internal measurements are approximately 6.4m x 8.5m, and 3.5m x 2.3m respectively. The workshop contains a variety of single phase joinery equipment in addition to the circular saw bench. Beyond, a garage court and domestic gardens are to be found. A short distance to the north-west, the ribbon of houses gives way to open countryside. The site is in the Metropolitan Green Belt.

5. Against this background I consider that the main issue for me to decide, in the light of local and national policies, is whether the use is appropriate to the Green Belt; and if not, would the weight of the claimed advantages be sufficient to provide very special circumstances to warrant the grant of permission.

6. The uses that are appropriate to the green belt are set out in the Council's policies and in national planning guidance (HMSO publication PPG 2). These include the use of existing buildings for agriculture and forestry, outdoor sport, cemeteries, institutions standing in extensive grounds, or other uses appropriate to a rural area. Whilst a carpentry workshop might be found in a rural area, either in established industrial premises or in redundant buildings, the introduction of such a use outside these general exceptions would not usually be anticipated in the Green Belt. Hence, I conclude that the development is inappropriate and permission should not be granted except in very special circumstances.

7. In support of your appeals you explain that the workshop accommodates your "one-man" business which started as a result of enforced redundancy. The workshop is used on a limited basis as most of the work is undertaken on site. You point out that there have been no complaints about the business, and the Council do not raise any objections about noise or smell. I have also noted that the buildings are well-screened. Nonetheless, and despite your suggestion that the type of equipment installed is no more than might be used by an enthusiastic DIY woodworker, I consider that the use is commercial in purpose and character as a matter of fact and degree.

8. A further reason given to justify the use is that you have no intention of expansion. In this respect I accept the constraints imposed by the size of the workshop, its domestic power supply, and the absence of vehicular access. However, the continuing success of your business could be dependent on adapting to meet new opportunities, or changed market demands, which could lead to the operation of the use in a more intrusive or damaging way.

9. You also point to the value of the workshop as your business income would not support the overheads of industrial premises. Whilst I am alive to the difficulties encountered by small businesses, and their value to the economy, this has to be balanced against important environmental objectives.

10. I have given very careful thought to your personal circumstances and the current needs of the business and the manner in which it is operated. However, the arguments put forward could have equal, or greater, relevance to others seeking to retain, or establish, inappropriate commercial activities in the Green Belt. This leads me to the view that approval in this case, even on a personal basis, could bring about a number of applications throughout the Metropolitan Green Belt as a whole with a strong expectation of success. Given the considerable weight to be attached to Green Belt policy, a breach in this case would undermine its overall integrity, and have cumulatively damaging and widespread repercussions for the erosion of the Green Belt.

11. Drawing together my findings on the main issue, the use amounts to inappropriate development in the Green Belt. As much as I sympathize with your personal circumstances and your business aspirations, I consider that the advantages of retaining the development are not sufficiently strong, in the light of important planning policies, to provide the very special circumstances necessary to sanction inappropriate development.

12. I have considered the decline of local trades in rural settlements and the way some residents cause more annoyance either through the playing of radios or driving vehicles in excess of the speed limit. Although I have noted your suspicions about the manner in which the use was drawn to the Council's attention, this is not directly relevant to the planning merits of the use. The appeals on ground (a) therefore fail.

13. The steps required by the notice require you to stop using the workshop for commercial purposes, and the removal of the circular saw bench. However, this would leave other joinery machinery in place and prevent the retention of the bench for purposes incidental to the normal residential use and reasonable enjoyment of your home. It seems to me, as the primary aim of the notice is directed against the use itself, that its purpose can be fully achieved by requiring the use to cease. Although there is no appeal under ground (g) I shall vary the notice by deleting the second requirement. I am satisfied that I may do this without prejudice to the Council's position.

14. In reaching my conclusions I have taken account of all other matters raised, but find nothing of sufficient weight to change the balance of my decision.

FORMAL DECISION

Appeal by Mr S C Barton (ref:T/APP/C/93/A1910/630454)

Appeal by Mrs L P Barton (ref:T/APP/C/93/A1910/630455)

15. For the above reasons, and in exercise of the powers transferred to me, I direct that the enforcement notice be varied by the deletion of the requirement to remove the circular saw bench equipment. Subject thereto I dismiss your appeals, uphold the enforcement notice as varied and refuse to grant planning permission on the applications deemed to have been made under Section 177(5) of the amended Act.

RIGHTS OF APPEAL AGAINST DECISION

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

Yours faithfully

David M H Rose.

DAVID M H ROSE BA(Hons) MRTPI
Inspector

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APPEAL TO THE HIGH COURT AGAINST AN INSPECTOR'S DECISION ON AN ENFORCEMENT NOTICE APPEAL OR ASSOCIATED PLANNING APPEAL

An Inspector's decision on an enforcement appeal is final, unless it is successfully challenged in the High Court. Neither the Inspector nor the Secretary of State can amend or interpret the decision. It may only be reviewed if it is remitted to the Secretary of State, by the Court, for re-determination or re-consideration.

Anyone thinking of challenging an Inspector's decision is strongly advised first to seek legal advice. The following notes are intended as general guidance only.

An appeal may be made to the High Court under either or both sections 288 and 289 of the Town and Country Planning Act 1990. Different time-limits, which are explained below, apply to each type of appeal.

a) Appeals under section 288 of the 1990 Act

Section 288 provides that a person who is aggrieved by any decision to grant planning permission on the deemed application in an enforcement notice appeal, or by the decision on an associated appeal under section 78 of the Act, may question the validity of that decision by an application to the High Court on the grounds that:-

1. the decision is not within the powers of the Act; or
2. any of the "relevant requirements" has not been complied with.

A challenge on either of these grounds must be made within six weeks of the date of the accompanying decision letter. "Leave" of the High Court is not required for this type of appeal.

The "relevant requirements" are defined in section 288 of the 1990 Act and are the requirements of:

- a) the Town and Country Planning Act 1990
- b) the Tribunals and Inquiries Act 1971 (or any other enactment replaced thereby), and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include:
 - i) the Town and Country Planning (Inquiries Procedure) Rules 1988 (SI. 1988 No. 944);
 - ii) the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987 (SI. 1987 No 701);
 - iii) the Town and Country Planning (Enforcement)(Inquiries Procedure) Rules 1992 (SI. 1992 No 1903); and
 - iv) the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991 (SI. 1991 No 2804, as amended by SI 1992 No 1904).

Copies of these may be obtained from HMSO Bookshops.

b) Appeals under section 289 of the 1990 Act

Section 289 provides that the appellant, the local planning authority, or any other person having an interest in the land to which the enforcement notice relates, may appeal to the High Court "on a point of law" against the Inspector's determination of an enforcement notice appeal.

An appeal under section 289 may only proceed with the leave of the Court. An application for leave to appeal must be made to the Court within 28 days of the date of the Inspector's decision, (unless the period is extended by the Court).

The appeal procedure involves the submission of what is called a "Notice of Motion" to the Crown Office in the Royal Courts of Justice. You are strongly recommended to consult a qualified legal

adviser about this procedure and its estimated cost to you.

INSPECTION OF INQUIRY DOCUMENTS

Any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State, in writing within 6 weeks of notification, for an opportunity to inspect any documents, photographs or plans appended to the decision. These will be listed at the end of the Inspector's decision letter. Your application should be sent to Room 1404, Tollgate House, Houlton Street, Bristol, BS2 9DJ, quoting the Inspectorate's appeal reference number and stating the date and time (in normal office hours) when you would wish to make the inspection. Please give at least 3 days' notice and include a daytime phone number, if possible.

Parties have a right to inspect the documents under the provisions of rule 17(3) of the Town and Country Planning (Inquiries Procedure) Rules 1988, and rule 20(3) of the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1992.

COMPLAINTS TO THE INSPECTORATE

Any complaint about an Inspector's decision letter, or about the way in which the Inspector has conducted the case should be made in writing to the complaints officer at the following address: The Planning Inspectorate, Room 14/04, Tollgate House, Houlton Street, Bristol BS2 9DJ. All complaints are investigated and a full reply can normally be expected within 3 weeks. However, the Inspectorate cannot reconsider an appeal on which a decision letter has been issued. This can be done only following a successful High Court challenge as explained overleaf.

THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION (THE OMBUDSMAN)

Anyone who considers that they have been unfairly treated through maladministration on the part of the Inspectorate or the Inspector, can ask the Parliamentary Commissioner for Administration (the Ombudsman) to investigate. The Ombudsman cannot be approached direct; reference can be made to him only by an MP. This does not have to be the local constituency Member - whose name and address will be in the local library - but in most cases this will be the easiest person to approach. The Ombudsman has no power to question the merits of the appeal or to alter the decision.

THE COUNCIL ON TRIBUNALS

If one of the parties feels that there was something wrong with the basic procedure used for the appeal, a complaint could be made to the 'Council on Tribunals', 22 Kingsway, London, WC2B 6LE. The Council will take the matter up if they think it comes within their scope. They are not concerned with the merits of the appeal and have no power to alter the decision.

PLANNING INSPECTORATE AGENCY
Department of the Environment

January 1994