

Town Planning 4/1282/81
 Ref. No.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF DA COKUM
 IN THE COUNTY OF HERTFORD

To Mr J Moir
 "Briery Hillsfield"
 Wayside
 Chipperfield
 Herts

..... Use of part of dwelling as an office and
 laboratory (Section 32 application).
 at "Briery Hillsfield". Wayside. Chipperfield.

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 permit the development proposed by you in your application dated 30 September 1981
 and received with sufficient particulars on 12 October 1981
 and shown on the plan(s) accompanying such application, subject to the following conditions:-

- (1) The development to which this permission relates shall be begun within a period of 5 years commencing on the date of this notice.
- (2) This permission shall enure for the benefit of the applicant, Mr James Moir, only.
- (3) The use of sound emitting plant or equipment shall be confined to the building and no outside testing of equipment shall take place within the curtilage.
- (4) The uses hereby permitted shall not be operated outside the hours of 8 am to 6 pm Mondays to Fridays (inclusive) 8 am to 1 pm on Saturdays, and there shall be a total restriction on the office and laboratory use on Sundays and Bank holidays.

The reasons for the Council's decision to grant permission for the development subject to the above conditions are:—

- (1) To comply with the requirements of Section 41 of the Town & Country Planning Act, 1971.
- (2) To enable the local planning authority to retain control over the development which is permitted only to meet the specific circumstances of the applicant.
- (3) In the interests of amenity.
- (4) To safeguard the residential amenity of the area.

Dated.....3.....day of.....December.....19.81

Signed.....*Colin Barnard*.....
Designation.....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, Marsham Street, London, S.W.1.) 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 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 Common Council, or on the Council of the county borough, London borough or county district in which the land is situated, as the case may be, 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.

A/299X/LMP/P



**Department of the Environment and
Department of Transport**

Common Services

Room 1309 Tollgate House Houlton Street Bristol

Telex 449321

Direct line
Switchboard

PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

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| Received BS2 9DJ | | | | - 9 SEP 1982 | |
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Messrs James Moir & Associates
Acoustical Consultants
Briery Hillsfield
16 Wayside
CHIPPERFIELD
Hertfordshire
WD4 9JJ

Your reference

JM/KR

Our reference

T/APP/5252/A/82/05008/G9

Date

CHIEF EXECUTIVE

- 8 SEP 1982

- 9 SEP 1982

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO:- 4/1282/81

1. I refer to your appeal, which I have been appointed to determine, against the decision of the Decorum District Council to grant planning permission subject to conditions for continued use of part of the dwelling as an office and laboratory on land at Briery Hillsfield, 16 Wayside, Chipperfield, Hertfordshire. I have considered the written representations made by you and by the council, by the parish council and also those made by other persons. I inspected the site on 29 July 1982.

2. The conditions in dispute are numbers 3 and 4 which provide that:-

(3) The use of sound emitting plant or equipment shall be confined to the building and no outside testing of equipment shall take place within the curtilage.

(4) The uses hereby permitted shall not be operated outside the hours of 8 am to 6 pm Mondays to Fridays (inclusive), 8 am to 1 pm on Saturdays, and there shall be a total restriction on the office and laboratory use on Sundays and Bank Holidays.

3. Paragraphs 1 and 2 above are correctly worded to show what in fact your appeal is against. Your appeal form stated that the appeal is "against the decision of the local planning authority to vary a 20 years consent without any prior consultation with me". Summary paragraph 1.0 of your appeal states "The practice has operated on the same site in exactly the same way, and doing exactly the same things, for 20 years with planning consent from the council". This is not in accordance with the facts. Short temporary permission for use of part of the dwelling as a laboratory and office was first granted in 1964, and another was subsequently granted for a short period in 1966, and a third permission on 19 February 1974 expired on 31 March 1976. There was therefore no consent in being for some years before your application of 1981 now under appeal.

4. Following my inspection of the site and its surroundings and from the representations made, in my opinion the main issues are, in the case of condition No 3 the effect which the outdoor testing noise has on the residential amenities of the neighbourhood, and in the case of condition No 4 the effect which the weekend use of the laboratory and offices would have on the residential amenities of the neighbourhood.

5. Wayside is a gravel surfaced cul-de-sac with grass verges and no footpaths, in the Metropolitan Green Belt. The houses, although not particularly large, are spaciouly set out and the area is exceptionally well provided with trees. To the west and north of Wayside is woodland or houses in large grounds, while to the north-east is agricultural land, and to the east is another cul-de-sac, Megg Lane of a broadly similar character. There is very little traffic noise near the appeal site, the nearest road carrying any considerable volume of traffic being over 300 yards from the appeal site. Over the whole area of the council's map the only land use, other than residential, agricultural, public open space and traffic, to produce noise to disturb the tranquility of Wayside is a garage site over 400 yards from the appeal site. The atmosphere in Wayside is unusually quiet and rural for a developed estate.

6. On the question of condition No 3, in view of the very pleasant, quiet atmosphere of Wayside, the noise made by the outdoor sound testing is likely to be more irritating to residents than it would be in residential areas of many towns or villages. I have fully considered your arguments concerning the scientifically measurable noise levels produced by the testing, the period over which the noise is produced, the numbers of test emissions and the background noise level. I appreciate that, being a technical man yourself, you prefer to base your argument on quantitative measurements; but in the circumstances I consider that the more important basis is the effect on the human ear and on the human reaction to an outdoor loud speaker test noise in this quiet residential area. That is why I observed the noise on the visit in the manner I did.

7. We established that your outside loud speaker, located in the usual way to the north of your house and facing north through woodland to agricultural land, was making the normal "sweep" test noise complained of, running for some 50 seconds, but some of it below and some of it above the audible pitches, rising up through the very deep, low frequency noise to the shrill, high frequency noise, and producing a peak reading approaching 90 dBA 1 metre from the loud speaker

8. In your own words (in your letter of 18 December 1981 at page 2) the testing noise "is obvious because it is a "Doctor Who" type of noise". I agree with you, and think you have hit on an apt description to a layman's ears. I believe it would strike most people as not only unusual, but unnatural, and perhaps even as an eerie noise. It is something which they would not normally hear at any time of their lives (apart perhaps from the science fiction type of thing you mention), even including noises normally audible from industrial premises. I certainly found it very noticeable at various neighbours' gardens, although it happens that I have heard such test noises before, and therefore the noise probably seems less curious and noticeable to me than it does to many people.

9. I was able to hear the noise clearly at the boundary of the furthest garden at the south-west extremity of Wayside cul-de-sac, Pinetrees, about 150 yards from your loud speaker. Down the other leg of Wayside to the south-east I also heard the noise clearly at the boundary of Hillcrest (the furthest to complain on that leg), a similar distance away. At these locations I heard the noise for 6-8 seconds each time, but there was a strong wind blowing from the east or slightly to the north of east, and this had 2 effects, both in your favour. First the high wind noise, mainly in the trees, tended to blanket other noises, and also the wind tended to blow the test noise way from the points at

which I heard it. On quiet days it would almost certainly be audible for a longer period - probably more nearly the 10-12 seconds repeated 20 or 30 times over a 2-3 hour session which you claim (in your letter of 18 December 1981, page 2), or the 15 seconds (as in your letter of 30 July 1982), or possibly even nearer the 20 seconds mentioned by local people.

10. The only place outside your curtilage where I observed any meter readings was in the garden of the neighbouring houses Sylanglade. It was audible there for 17-20 seconds; and it was significant that on one occasion an aeroplane overhead produced a considerably greater increased meter reading over background noise than did the test noise, but the test noise was still very clearly audible to the human ear above the aircraft noise.

11. I have fully considered all your figures and arguments, including those based on BS 4142, but I consider Circular 10/73 to be of greater relevance, in particular paragraph 26 pointing out that noise should not make the area a less pleasant place in which to live. I am fully convinced that the outdoor noises your apparatus emits do make the area less pleasant to live in.

12. You claim that your motor mower makes more noise over longer periods, and that may well be true, but people realise that some domestic noise from neighbours' gardens are normal, and are prepared to tolerate them, even if they do not like the noises. The unusual commercial noise you make out of doors is in quite a different category.

13. You claim that the noise has only recently given rise to complaints stirred up by a recently arrived neighbour, but this is not in accordance with the facts. Your own letter of 18 November 1972 (at Appendix VIIa of the council's Rule 6 Statement) spoke of complaints. A number of local people have now complained, not just signing a petition but writing individually. My site visit has convinced me that they have good grounds for complaint. The absence of complaints over an earlier period may well have been due, as one of them wrote, to the fact that neighbours thought further objections would be fruitless in view of the earlier planning permission granted, not realising that they were temporary.

14. You also deny (at paragraph 10.2 of your letter of 24 June 1982) that the testing can only be done, as the council claimed, on windless dry days (and so be more annoying to people using their gardens). However, as you stated this yourself in your letter of 18 November 1972 (Rule 6 Statement Appendix VIIa) you can hardly be surprised that the council said the same thing.

15. In your appeal document at paragraph 7.1(a) you claim that "the practice has been in operation without any changes in our activities for over 20 years", but that cannot be so. The original planning application was for use of part of the building for office and laboratory purposes, not the garden, and your covering letter of 21 March 1964 (Appendix IIIc to the Rule 6 Statement) stated "Some of the calibration work involves making a noise, but this is confined to the rooms themselves and is inaudible on the boundaries of the property".

16. For the reasons described above, it would require the most exceptional circumstances to justify planning permission allowing the external noise to continue. You claim that enforced cessation of outdoor testing in your garden would end your business but I do not agree that this would be the inevitable result of compliance with the conditions. There may be other quiet outdoor spaces which you could use, subject to any necessary permissions, at some possible cost. Alternatively,

you could hire an anechoic chamber; again this would not be as convenient, and it would be more expensive, but a practice with such extensive world-wide contracts should be able to afford proper testing facilities. I have carefully considered this business argument, particularly in the light of Circular 22/80, but consider the planning objections to be of far greater weight.

17. Turning to the question of condition 4, limiting the hours of use of the office and workshop, this is normal for commercial use in a residential area to avoid possible disturbance to residents from coming and going of people or vehicles or from other causes, and I can see no reason to relax it in this particularly quiet area, although I realise it may be inconvenient to you.

18. You argued (at paragraph 7 of your appeal document) that the matter should be dealt with under the Control of Pollution Act. That is a separate matter not within my jurisdiction. Planning law is within my province, and I can find no fault in the council's planning procedure in this case. It was your responsibility to see that your earlier brief temporary planning permissions were renewed; councils cannot be expected to follow up renewal of every temporary planning permission when it lapses.

19. I have considered the other matters raised, including those in your letters of 30 July and 2, 4 and 24 August, but they are outweighed by the considerations which have led to my decision.

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

I am Gentlemen
Your obedient Servant



G V HAYWARD BSc FICE FIMechE
Inspector