

Town Planning

Ref. No. 4/1317/85 ..

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF

DACORUM

IN THE COUNTY OF HERTFORD

To

Clarke Soschinski Ltd.
Hudnall Lane
Little Gaddesden

Messrs. Melvin Lansley & Mark
The Archway
105 High Street
Berkhamsted

Two storey light industrial building
.....
.....
at The Expotechnik Centre, Hudnall Lane, Little
Gaddesden
.....

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 10th October 1985 and received with sufficient particulars on 14th October 1985 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) The building shall first be occupied by Expotechnik International Exhibition Systems.
- (3) The development shall not be occupied until the access driveway has been widened in accordance with the approved plan.
- (4) A 0.5 m margin shall be provided between the new access drive and the realigned boundary fence to the south west.
- (5) No work shall be started until a comprehensive scheme of landscaping including existing trees, for the site shall have been submitted to, and approved by, the local planning authority. This landscaping scheme shall be implemented strictly in accordance with the approved details in the first planting season following the occupation of the development and shall be maintained at all times thereafter to the reasonable satisfaction of the local planning authority.

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) Having regard to the restrictive planning policies applicable within the area, permission is only granted in this case having regard to the operational needs of the existing firm.
- (3) In the interests of highway safety.
- (4) In the interests of highway safety.
- (5) To maintain and enhance visual amenity.
- (6) To ensure proper use of the site and avoid obstruction on adjacent highways.
- (7) To ensure a satisfactory layout.
- (8) To ensure a satisfactory appearance.
- (9) In the interests of the residential amenity of adjoining dwellings.

Dated.....day of.....19.....

Signed.....

Designation

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.

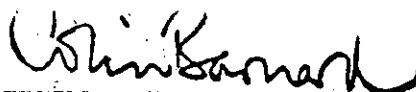
(4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.

- (6) The development hereby permitted shall not be occupied until the arrangements for vehicle parking, circulation, (loading and unloading) shown on Plan 4/1317/85 shall have been provided and shall thereafter be maintained at all times.
- (7) Not later than 12 months following first occupation of the building all existing buildings shall be demolished and the land reinstated in accordance with the approved layout.
- (8) No work shall be started on the development hereby permitted until details of materials to be used externally shall have been submitted to and approved by the local planning authority and the development hereby permitted shall be carried out in the materials as so approved.
- (9) Noise from operations conducted on the premises shall not exceed the following values during the corresponding specified times when measured during any 15 minute period and expressed as L90 (that sound pressure level exceeded for 90% of the time). The measurements shall be taken and the site boundaries at a height of 1.2 metres above ground level except where the site is enclosed by a wall or other sound-opaque structure at or near the perimeter, when the measurements shall be taken at a position high enough to measure the noise coming over the top of such a structure.

| <u>Time Period</u> | <u>L90 over 15 minutes</u> |
|--|----------------------------|
| Mon - Fri. (incl) 7 am to 7 pm) | |
| Saturday 7 am to 1 pm) | 35 dBA |
| (Excluding Bank Holidays) | |
| Mon - Fri. (incl) 7 pm to 10 pm) | |
| Saturday 1 pm to 10 pm) | 30 dBA |
| Sundays & Bank Holidays 7 am to 10 pm) | |
| All days 10 pm to 7 am | 24 dBA |

Dated 28th day of November 1985

Signed



Designation CHIEF PLANNING OFFICER



Department of the Environment and Department of Transport

Common Services

Room 1417 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 927

Switchboard 0272-218811

GTN 2074

Council's Ref: 4/1317/85/GPB/ED

20707

Smeathmans
Solicitors
PO Box 1
10 Queensway
HEMEL HEMPSTEAD
Herts HP1 1LU

CHIEF EXECUTIVE
OFFICER

1 JUN 1987

File no.
Refer to
Closed

Your reference

RTH. SJK
Our reference
DACORUM DISTRICT COUNCIL

Ref. T/APP/A1910/A/86/50191

Date

| | | | | | |
|--------|------|-----------|------|--------|------|
| C.P.O. | D.P. | 29 MAY 87 | B.C. | Admin. | File |
|--------|------|-----------|------|--------|------|

Received

- 1 JUN 1987

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY CLARKE SOSCHINSKI LIMITED
APPLICATION NO: 4/1317/85

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to grant planning permission subject to conditions for the erection of a 2-storey light industrial building at the Expotechnik Centre, Hudnall Lane, Little Gaddesden. I have considered the written representations made by you and by the Council and also those made by interested persons. I inspected the site on 9 February 1987.

2. The condition in dispute is No 9 which provides that:

Noise from operations conducted on the premises shall not exceed the following values during the corresponding specified times when measured during any 15 minute period and expressed as L90 (that sound pressure level exceeded for 90% of the time). The measurements shall be taken at the site boundaries at a height of 1.2 m above ground level except where the site is enclosed by a wall or other sound-opaque structure at or near the perimeter, when the measurements shall be taken at a position high enough to measure the noise coming over the top of such a structure.

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L90 over 15 minutes

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| Sats and Bank | |) | 30dBA |
| Holidays | 7 am to 10 pm |) | |
| All days | 10 pm to 7 am | | 24dBA |

3. The appeal site is situated within a village set in attractive countryside. Little Gaddesden is basically a long linear village, with Hudnall Lane branching as a spur off the spine road. The site is set in backland behind houses fronting Hudnall Lane and also being flanked to the south-west by houses. The houses along the north-west boundary of the site are set well back within their curtilages, so that their rear gardens are 10 m (33 ft) deep. The access to the site is by way

of a 5.2 m (17 ft) minimum width driveway running between residential curtilages. Nos 9 and 10 Hudnall Lane are owned by the appellant company.

4. On the site at present is a collection of buildings which have been in existence for many years and which apparently have light industrial use rights without any planning restriction other than that which arises from that description of their use and the use classes order definition. These buildings which total 21 in number can best be described as mainly of the shed and hut type, but all appear well maintained, in good condition and likely to have many years of useful life remaining if the same care were continued.

5. So far as development plan policies are concerned, the site is within the rural area beyond the Metropolitan Green Belt and is within the Chilterns Area of Outstanding Natural Beauty. The Council has pointed to the restrictive nature of the policies and that the redevelopment of the site is contrary to these. In this context I note that in the Review of the Structure Plan submitted to the Secretary of State on 1 May 1986 Policy 26 states that favourable consideration will be given throughout the County to the development and redevelopment of land for the accommodation of small firms, and there will be a presumption in favour subject to no major adverse environmental impact. (My precis).

6. However, so far as this appeal is concerned, I do not consider that the policy background is a major factor. This is because the policy issues primarily go to the question of whether or not planning permission should be granted, and the Borough Council has already answered this question in the affirmative. I see no reason to disagree with the decision to grant permission (bearing in mind that in an appeal against conditions, the whole permission may be looked at afresh).

7. In the light of the above, the other matters raised in the written representations and what I saw at my site visit, I consider that the main issue upon which my decision in this case will turn is whether the development would be likely to have an adverse effect on neighbouring residents through noise emissions.

8. I have already noted that the existing development is unfettered by any conditions on a planning permission. For the appellant you state that the existing business has been carried on without any complaint by the local authority, and that as far as is known, no complaints were made to the predecessor company on the site. This assertion has not been countered by the Council. The only evidence of noise nuisance which is before me is that given by Mr Rogers of 9 Chapel Close and Mr Gregory of "Conifers". Mr Rogers states that frequent disturbance occurs late at night by lorries pulling into the parking area, and on one recent occasion a lorry was revving at 5.20 am. Mr Gregory also refers to noise caused by vehicles.

9. I am satisfied from what I saw at my visit that there is little in the way of machinery or mechanical processes on the site to cause undue noise emissions. I am also satisfied that a new purpose designed building is likely to result in a reduction in noise levels experienced outside the site which arise from the use of this machinery. Furthermore, I accept that the design of the development makes much more satisfactory provision for the handling of materials and products, and as a result of all these points the development should result in an improvement in environmental conditions generally.

10. It is vehicle noise which appears to be the major source of noise which is likely to be intrusive to local residents, and in this connection it seems to me that the development is fairly neutral. It is not likely to give rise to any significant increase in the numbers of vehicles coming to the site (and it is

particularly heavy vehicles which are likely in my judgement to cause problems), but to the extent that there might be some small increase over time its adverse effects are offset by the fact that manoeuvring space is much better provided for in the new development and that there would not be the need to transport products or materials within the site between buildings.

11. In its representations the Council says that it is seeking to ensure that noise levels generated by this development do not significantly increase the growth of ambient noise levels resulting in the area becoming a less pleasant place in which to live. I agree that this is a reasonable approach to the development. From what I have already said above it will be seen that in my assessment the development is likely to emit less noise from the industrial processes carried on, whilst traffic noise - the greatest element in the problem - is unlikely to be significantly different one way or the other. That being so, I have reached the conclusion that the Council's fears that the development may make the area less pleasant for residents because of greater noise levels is not well founded and therefore it is not reasonable to impose this condition.

12. In reaching this conclusion I have also borne in mind that there is provision within Part III of the Control of Pollution Act 1974 whereby action can be taken against noise nuisance through the Magistrates Courts, and that the new building is described as for light industrial use. I appreciate the point made by the Council about interpretation and enforcement difficulties arising from this description, but I take the view that it should be possible to produce persuasive evidence in the event that the use steps outside the class, and I am not convinced that enforcement of Condition 9 would not have its own difficulties. However, bearing in mind that there cannot be an "implied" condition on a planning permission, I consider that the restriction to a light industrial use should be formally imposed.

13. I have taken account of all other matters, but none outweigh the considerations which have led to my decision.

14. For the reasons I have given, and in exercise of the powers transferred to me, I hereby allow this appeal, discharge condition No 9 on the planning permission No 4/1317/85 dated 28 November 1985 for the erection of a 2-storey light industrial building and substitute therefore the following condition: the development hereby permitted shall only be used for light industrial purposes as defined in Class III of the Schedule to the Town and Country Planning (Use Classes) Order 1972 or any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order.

I am Gentlemen
Your obedient Servant

Terrence Kemmann-Lane

TERRENCE KEMMANN-LANE JP DipTP FRTPI MBIM
Inspector



Department of the Environment and Department of Transport

Common Services

Room 1417 Tollgate House Houlton Street Bristol BS2 9DJ

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Council's Ref: 4/1317/85/GPB/ED

20707

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HEMEL HEMPSTEAD
Herts HP1 1LU

**CHIEF EXECUTIVE
OFFICER**

1 JUN 1987

File no.
Refer to
Checked

Your reference

RTH. SOK
Our reference

Ref. T/APP/AL910/A/86/50191

Date

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Your obedient Servant

Terrence Kemmann-Lane

TERRENCE KEMMANN-LANE JP DipTP FRTPI MBIM
Inspector