

TECHNICAL SERVICES DEPARTMENT

A.H. Lewis, B.Eng., C.Eng., M.I.C.E., F.I.Mun.E., Director

DACORUM DISTRICT COUNCIL,
CIVIC CENTRE, HEMEL HEMPSTEAD, HERTS. HP1 1UE

To Messrs. Fuller Hall & Foulsham, T.P. Ref: 4/1349/78D
.....
53, Marlowes,
.....
Hemel Hempstead, HP1 1LL
.....

Dear Sir,

12th October 1978
Your application dated has been considered
under the provisions of Section 53 of the Town and Country Planning
Act, 1971, to determine whether planning permission is required in
respect of Use of part of Warehouse for machining, drilling and
alterations to pre-constructed shop fittings at The Warehouse,
The Wilderness, Berkhamsted for Messrs. Meeny's U.K. Ltd.

You are hereby given notice that the proposals set out therein ~~do~~
~~do not~~ constitute development within the meaning of the said Act, ~~and~~ therefore
~~but~~

(a) planning permission must be obtained before any such proposals
can be carried out

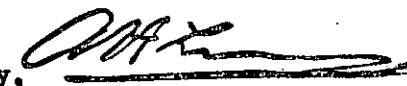
~~.....~~
(b) ~~do not~~ require the permission of the Local Planning Authority.

The grounds for this determination are as follows:

The proposed use is industrial which in the opinion of the Local Planning
Authority is not ancillary to the existing storage use and would therefore
constitute a change of use.

22nd November 1978
Dated

Yours faithfully,



.....
Director of Technical Services.

NOTES

(1) Any person who desires to appeal -

- (a) against a determination of a local planning authority under Section 53 of the Act; or
- (b) on the failure of a local planning authority to give notice of their decision or determination or of the reference of the application to the Secretary of State,

shall give notice of appeal to the Secretary of State within six months of notice of the decision or determination or of the expiry of the appropriate period allowed under Article 7 (6) of the Town and Country Planning General Development Order 1977 for giving such notice (i.e. 8 weeks from date of receipt of application by Local Planning Authority), as the case may be, or such longer period as the Secretary of State may at any time allow. The notice shall be given in writing, addressed to The Secretary of State for the Environment, Tollgate House, Houlton Street, BRISTOL BS2 9DJ.

(2) Such person shall also furnish to the Secretary of State a copy of the following documents:-

- (i) the application
- (ii) all relevant plans, drawings, particulars and documents submitted with the application;
- (iii) the notice of the decision or determination, if any;
- (iv) all other relevant correspondence with any local planning authority.

1. The question to be determined is whether the use of part of the ground floor of premises known as The Warehouse, The Wilderness, Berkhamsted for machining, drilling and sawing of shopfittings is development requiring planning permission.
2. The argument that permission is not required is based on the contention that this industrial use is ancillary to the main use of the premises for storage purposes. It is therefore necessary to give consideration to what can properly be regarded as ancillary and what must be regarded as an independent use.
3. What is really to be considered is the character of the use of the land, not the particular purpose of a particular occupier, and it is the dominant use of the whole planning unit which must be taken into account.
4. Provided that the machining etc. can be shown to be ancillary to the dominant use of the building (which is as a warehouse), then there is no development involved. However, "ancillary to" connotes the subservient nature of one use to another, so that the ancillary use is part of that other use and not a separate independent use. It is also important to note that what is to be considered is not whether a use is ancillary to a particular business, but whether it is ancillary to some other use.
5. In this particular case, there is certainly a connection between the uses in that they are both associated with the purposes of one business, but neither use can be said to be really an incident of or ancillary to the other.

The industrial use, which involves the making of alterations to shop-fittings prior to assembly on site, could equally well be done elsewhere than in the same building where the shop-fittings are stored, and such work could even be carried out on site. The machining etc. cannot therefore be considered to be incidental to the storage use. It is incidental to the operation of the business but not to the storage use of the premises.

6. Since the industrial use is not an ancillary use, it must be regarded as development. It is not development which is permitted by the Town and Country Planning General Development Order 1977, and it must therefore be concluded that the proposed use of part of the ground floor of the premises for machining drilling and alteration to shop-fittings constitutes development requiring planning permission.
7. This application should be determined accordingly.

T.411/JJJ/

21st November 1978