



## Department of the Environment

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CHIEF EXECUTIVE

18 SEP 1980

File Ref. ....

Refer to .....

Cleared .....

Council Ref T404/SJ/4/1586E 79E

Messrs David Picton and Co  
Solicitors  
11 Hatfield Road  
ST ALBANS  
AL1 3SX

Your reference PWB/JLB/WAL

Our reference T/APP/5252/C/79/4190/G4

TECHNICAL SERVICES DEPT.		ON
PLANNING SECTION		Date
18 SEP 1980		
18 SEP 1980		
FILE No.		

17 SEP 1980

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
APPEAL BY MR J B WALDRON  
LAND AT 44 THUMPERS, HEMEL HEMPSTEAD

1. I refer to the appeal, which I have been appointed to determine, against an enforcement notice served by the Dacorum District Council concerning the above-mentioned land. I have considered all the representations made by you and by the council and also those made by other interested persons and I inspected the site on Friday 15 August 1980.
2.
  - a. The date of the notice is 25 September 1979.
  - b. The breach of planning control alleged in the notice is the making of a material change in the use of the land to a use for the purposes of a taxicab or hire car business and repairs of motor vehicles in connection therewith without the grant of planning permission.
  - c. The requirements of the notice are to discontinue the use of the land for the purpose of taxicab or hire car business and repairs of motor vehicles in connection therewith and to restore the land to its condition before the development took place.
  - d. The period for compliance with the notice is one calendar month.
  - e. The appeal was made on grounds 88(1)(a) (b) and (f).
3. The appeal site consists of a residential property, and also 2 garages one abutting and one nearby in a garage court. The site lies in a large residential development of terraced housing lying on the side of a hill, where the domestic garages are in separated garage courts. The estate roads are used for parking, and some off-street parking bays have been provided. When I visited, there was a small office area, containing telephones, logbook and radio control in the house; the only other space used by the car hire business was the garage court; of the 2 garages occupied by your client one was empty, and the other contained household equipment and some parts of motor cycles or vehicles.
4. You argue under ground (b) that the admitted business use is ancillary to the residential use of the property, and that if any change of use has occurred, it is not material. It seems to me that use of radio control equipment and telephones for business purposes, and the occasional parking of vehicles for hire, cannot be regarded as ancillary to the use of a dwellinghouse

as such; the use of a dwellinghouse by a professional man for his business may be permitted, but is nevertheless not an ancillary use. Although, as at present operated, the business may only have a small impact on the area, such a business especially as its operation includes unsocial hours, can do so. Hence in my opinion the change of use that has occurred is material as a matter of fact and degree; as planning permission has not been obtained, the appeal fails under ground (b).

5. A residential estate is not an appropriate area for a business that could create other than residential activity, and hence a vehicle hire business should not be permitted unless there are compelling reasons. I note the stated requirement for such a business, but this does not necessarily require it to be located here, although clearly convenient. As you indicated in your suggested conditions, this type of business could harm residential amenity. In my opinion such conditions are difficult to enforce. However, at present your client's business does not appear to harm the amenities of neighbours, although if the business were to increase, parking and disturbance problems would probably arise. Further, in the past, the Council appear to have agreed to the present or similar, use of the property. Nevertheless, having considered all the representations, planning permission will not be given and your appeal under ground (a) fails. I intend however to extend the time for compliance with the notice considerably; this extension will enable the business to continue, and also give the local planning authority an opportunity to reconsider its impact in the future.

6. As regards your appeal under ground (f) there are 2 points. First there is no firm evidence of use of the appeal site for repair of vehicles other than motor cycles and cars privately owned by your client and his family; there was repair activity in the rest of the garage court when I visited, as might be expected; I intend to correct the notice by deletion of all references to repairs. Second, the notice requires restoration of the site; it seems to me that cessation of the use, when it occurs, will be adequate to remedy the breach, and the requirements will be amended accordingly; your appeal succeeds to this extent.

#### FORMAL DECISION

7. In exercise of the powers transferred to me, I hereby direct that the notice be corrected by deletion of reference to motor repairs in paragraphs 1(iii) and 2, and secondly be varied in paragraph 2 by the deletion of the words "one calendar month" and their substitution by the words "twelve calendar months", and also by the deletion of all the words after "business". Subject to these corrections and variations, I uphold the notice, dismiss the appeal, and refuse to grant planning permission on the application deemed to have been made under Section 88(7).

#### RIGHT OF APPEAL AGAINST DECISION

8. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decisions to the High Court are enclosed for those concerned.

I am Gentlemen  
Your obedient Servant



D ROSS CBE MA  
Inspector