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H.C.C.  
Code No. W/2710/64  
L.A.  
Ref. No. 8481/1

## ADMINISTRATIVE COUNTY OF HERTFORD

The Council of the BOROUGH OF **HEMEL HEMPSTEAD**  
~~URBAN DISTRICT OF~~  
~~RURAL DISTRICT OF~~

## TOWN & COUNTRY PLANNING ACT, 1962

To B.G. Barnes & Son Ltd.,  
131 Belswains Lane,  
Hemel Hempstead.

Whose agents are -  
W.F. Johnson & Associates,  
39a High Street,  
Hemel Hempstead

pair of semi-detached houses,
Newell Road,
at Hemel Hempstead

Brief  
description  
and location  
of proposed  
development.

In pursuance of their delegated powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council on behalf of the Local Planning Authority hereby permit the development proposed by you in your application dated **8th November 1964**

and received with sufficient particulars on **11th November 1964**

and shewn on the plan(s) accompanying such application, subject to the following conditions:-

1. Land (shown hatched green on plan 8481/1) shall be reserved for the future improvement of the highway.
2. No new walls, gates or fences, shall be erected on or in front of the highway improvement line.
3. A solid screen wall or screen fencing 6-ft. high shall be erected on the north-east boundary of the site prior to the completion of the erection of the houses and shall be maintained to the reasonable satisfaction of the local planning authority.
4. A landscaping scheme shall be submitted to the local planning authority for approval within six months of work starting on the site; the scheme, as approved, to be completed within twelve months and thereafter maintained to the reasonable satisfaction of the local planning authority.

permission referred to in this notice of decision.

- (i) A consent under section 75 of the Planning Act, 1962;
- (ii) A passing of the plans or a consent for a development subject to the purposes of the Public Health Act, 1936 as amended;
- (iii) A consent under the Public Health (Drainage of Town and Premises) Act, 1907;
- (iv) An approval under the Clean Air Act, 1956;
- (v) A passing of plans under the Thermal Insulation Act, 1957.

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

- 1.) To meet the requirements of the local highway authority.
- 2.) To ensure that the privacy enjoyed by the occupiers of the adjoining residential property is adequately maintained.
- 3. To protect and enhance the visual amenities of the locality.

Dated Sixteenth day of December 1964

  
Town Clerk/Surveyor of the Council.

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 grant permission or approval subject to conditions, he may by notice served within one month of receipt of this notice, appeal to the Minister of Housing and Local Government in accordance with Section 23 of the Town and Country Planning Act, 1962. The Minister has power to allow a longer period for the giving of a Notice of Appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed development are in progress. The Minister is not, however, required to entertain such 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 provisions of Section 17(1), 18(1) and 38 of the Act and 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 Minister of Housing and Local Government, 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 Council of the County District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with Section 129 of the Town and Country Planning Act, 1962.

(4) In certain circumstances, a claim may be made against the local planning authority or the Minister of Housing and Local Government for compensation, where permission is granted subject to conditions by the Minister on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 123 and Part VI of the Town and Country Planning Act, 1962.

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17th

7. Consideration has been given to the appellants' claim for costs, but the Minister has decided that he would not be justified in making an award in this case.

I am, Sir,  
Your obedient Servant,

(Signed) D. G. POMEROY

(D. G. POMEROY)

Authorised by the Minister  
to sign in that behalf.



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15th 10 11

15th 10 11

the Right Honourable James H. Morrison, M.P.,  
Minister of Housing and Local Government.

I have the honour to report that on 15th 10 11, I attended an inquiry at the Town Hall, Hemel Hempstead, Hertfordshire, held under section 23 of the Town and Country Planning Act, 1947, at the request of the Hemel Hempstead Borough Council, on behalf of the Hertfordshire County Council, to permit the extension of a road fronted by the construction of a storage area with a main access to the road at Boxmoor.

#### 1. The Reasons for Refusal are -

The site is within an area allocated for residential purposes in the submitted first review of the county development plan and the proposal would prejudice the plan's implementation and produce increased activity on the site which is surrounded by residential property and has vehicular access across a public footpath.

This report includes a description of the appeal site and surroundings, the gist of the representations made at the inquiry, and my findings of fact, conclusions and recommendation. Lists of appearances, documents, and plans are attached.

#### THE SITE AND SURROUNDINGS

3. Boxmoor is in the south-west part of Hemel Hempstead and about  $\frac{1}{2}$  mile from the town centre. Through this part of the area and running mainly east/west is the main railway line from London Euston, London Road, A.41 (T), the Grand Union Canal and the River Bulbourne.

4. Kingsland Road runs east and west from the south end of Wharf Road to Fishery Road and is fronted by dwellings along the north side.

5. There are also dwellings along the south side but in addition there is the extensive curtilage of a long established saw mill and timber yard with wharf facilities on the canal, and the appellants' property.

6. Running from Fishery Road in the south-west across Kingsland Road and Horsecroft Road is a public footpath, Fishery Passage.

7. The appeal site is about 120 yards from Fishery Road and separated by twelve small Victorian semi-detached houses on the east from the timber yard.

8. West of the site is a pair of new maisonettes fronting onto Fishery Passage and beyond there is a small hall. South of the curtilage to the maisonettes is a lock-up garage which is also approached from the appellants' access.

9. The site, in addition to having a 30 feet frontage to Fishery Passage has one of 10 feet to Kingsland Road. The site is about 35 feet wide, about 213 feet in depth and has an area of about 0.17 of an acre.
10. Vehicular access to the site and to the present single-storey brick building is mainly along the west side of the curtilage and it is about 16 feet wide with a crossing over the line of Fishery Passage where it enters Kingsland Road.
11. The principal building on the site is single storey, of brick construction with a slated roof. It is about 20 feet wide and 135 feet in length with a principal entrance onto Kingsland Road, but delivery vehicles use the side access.
12. The building is set back about 16 feet from Kingsland Road and is coincidental with the eastern boundary. It is subdivided into a number of rooms and used for the manufacture of wire brushes. One small room is used for an office.
13. Development is proposed on the southern part of the site where there was waste and assorted items. On the east side of this land is a brick wall about 7 feet in height and separating it from the long back garden of the adjoining house.
14. Along the south side is a hedge with occasional trees separating it from a paddock and land where old logs and other items are stacked. Further east near to the junction of Fishery Passage and Fishery Road are premises used by a small engineering company.
15. Between the canal and the river are some willow trees and shrubs.

#### THE CASE FOR THE APPELLANTS

##### The material points were:-

16. The appellant company, formed in 1890 for the manufacture and sale by wholesale of industrial wire and other type brushes, had continuously operated from this site.
17. On retirement from the services in 1959, the present managing director had acquired control of the company and had bought the property, but had for financial reasons to sell other land to the west.
18. A moribund business had been transformed into a thriving company by a steady increase in turnover with exports accounting for almost 25% of the trade, a percentage capable of further improvement.
19. About 2,400 square feet of floor space was in use and the company employed 13 persons at the premises and up to 15 outworkers in the surrounding residential area. This was possible because about 80% of the processing involved hand operations only, even though some small modern electrically powered equipment had been installed.
20. Inadequate storage space had hindered production, and impaired efficiency and working conditions. Planning consent had been sought for an extension, development which would also enable further and better vehicle parking accommodation (Plan E).
21. It was proposed to provide about 1,200 square feet of storage accommodation and parking space for seven vehicles by taking advantage of the fall of the land.
22. The extension would provide better working conditions for employees by entirely separating production from stored raw materials and finished products.

33. The nature of the company's business was a limiting factor in its growth and it was unlikely that activities would justify expansion beyond the present site limits.

34. While the land on the north side of Kingsland Road was predominantly residential in character that to the south was different. It included dwellings, a girl guides' hut, an extensive industrial undertaking, "Posters Saw Mills" on a site of about 3.9 acres with a 650 feet frontage to Kingsland Road and also two ranges of buildings used for engineering purposes and a scrap metal yard to the south-west.

35. The accuracy of the council's pre-inquiry statement that the "predominantly residential character" of the area surrounding the site was "still maintained" depended upon the extent of the area in mind.

36. The industrial element accounted for about half of the  $8\frac{1}{2}$  acres of land bounded by Kingsland Road, Wharf Road, the river and Fishery Road.

37. Additionally the council's reference to the inclusion of the site within a residential area in the First Review of the development plan was factually incorrect and misleading.

38. The site was in a primarily residential area in the South Hertfordshire Town Map Area (Sheet 65: E.B.) with which a primarily industrial area allocation, covering the saw mills and an extensive frontage to the Grand Union Canal to the south of the site, was contiguous. (Plans A and B).

39. The First Review Statement confirmed that - "Other uses which, in the opinion of the council, are consistent with the primary use, may be permitted."

40. Nothing in the planning decision nor in the statement suggested that the existing industrial use or the proposed storage extension was inconsistent with the proposed primary use.

41. The council admitted that "light industry was not necessarily entirely incompatible with a primarily residential area". There was therefore no reason why the appellants should have objected to the Review proposals now with the Minister.

42. The company's activities accorded with Class III of the Use Classes Order of 1944, being a use which could be pursued in a residential area without any detriment to the area.

43. The premises had co-existed with the nearby dwellings for about 60 years, and the present Managing Director had received no complaints from local residents, nor was he aware of any before 1959.

44. The council's consent for the building of two maisonettes within 8 yards of the manufactory demonstrated their agreement that it had no detrimental effect. One person who had written to the council objecting to the proposal was a former employee whose services had to be terminated, while two had been satisfied that the development would not detrimentally affect the surroundings.

45. The extension, because of the southward fall of the site, would allow the existing external appearance of the building to be generally maintained while providing much needed parking space within the curtilage and thus reducing vehicle parking on the highway.



36. If the council were objecting to the use of the existing vehicular access over the company's land because of the juxtaposition of Fishery Passage, it was to be recalled that they had given planning consent for 19 garages which would have to be served by it.
37. The present building had a floor space of 2,400 square feet and an external cubic content of about 42,000 cubic feet, and no direction had been made under Article 4 of the Town and Country Planning General Development Order, 1963 restricting permitted development.
38. The appellants would seem to be entitled to extend their premises in accordance with the provision of the Order, the proposal exceeding this by about 980 square feet.
39. The planning authority's representatives had never inspected the premises internally and they were in no position to state that there would be increased activity if the development proceeded.
40. Only four more persons would be employed at the premises and if another company should take over the premises, the authority would not control the number of employees who might be employed in a more intensive business.
41. The reasons for refusal had not included any reference to daylighting standards, even though in use for many years and the council had now no right to introduce those arguments in this case.
42. Even so, the extension would be more than 100 feet from the back of the nearest dwelling on the east side.
43. Planning Bulletin No. 5 indicated that daylighting controls need not be applied to every type of development nor applied rigidly as rules of thumb. Their application should not be divorced from common sense.
44. A 7 feet high wall around the site would not require planning permission and the area proposed to be developed could be used for open unsightly storage without planning consent and without any limitation upon the height of the packing cases.
45. There had been inconsistency in the council's decision, the arguments put forward and in their pre-inquiry statement.
46. There were no proposals to redevelop this area, nor was it programmed or designated in the Review Plan covering the period up to 1980 so far as concerned Hazel Hempstead.
47. The noise and activity emanating from the existing saw mills, which were to continue, did not make this locality one suitable or attractive for residential redevelopment.
48. The appellants' land would make a minimal contribution if the existing use was terminated and the granting of planning consent for the maisonettes conflicted with the principle of comprehensive redevelopment.
49. The council were seeking to frustrate a reasonable expansion when they had no positive proposals for the area, nor any relocation policy for individual companies, including the appellants.
50. The council had no proposals to buy the land nor had they suggested other sites. Furthermore this small company, with limited resources, could not meet the costs of transferring to another site.

51. Since the site had existing use rights, the company could sell their premises to another undertaking and the council would not take any steps to buy them nor help the appellants. They had made no approach to the company and had acted in an unreasonable manner.

52. There had been no criticism of the external appearance of the proposed extension and there was no reason why the inoffensive and quiet business should not be permitted this limited expansion.

### THE CASE FOR THE PLANNING AUTHORITY

The material points were:-

53. The area of Hemel Hempstead designated under the New Towns Act 1946 included the appeal site and the surrounding land.

54. The site was included in an area allocated for residential purposes in the Development Corporation's Master Plan.

55. When the Master Plan was revised in 1961 the land use allocation remained unchanged, but the Revised Plan showed no redevelopment proposals.

56. On the 1st April 1962, the statutory powers and responsibilities for preparation of Development Plans reverted to the county council as local planning authority.

57. The Revised Master Plan had no statutory significance and it was superseded by the Hemel Hempstead Draft Town Map which indicated the New Town Designated Area and also showed the site to be in an area allocated for residential purposes.

58. On the 31st December 1963, the First Quinquennial Review was submitted to the Minister including proposals for this Borough which formed part of the South Hertfordshire Town Map. The site was within an area allocated for residential purposes.

59. There was no programming included in the First Review of the South Hertfordshire Town Map either for the site or other land up to 1973, although population statistics covered the period up to 1980 and was based upon the Development Corporation's statistics.

60. The Hemel Hempstead population, given as 60,900 in 1961 was expected to increase to 80,000 by 1980.

61. In the Written Statement to the First Review it is stated that:- Paragraph 2(11) "The allocation of an area on a Town Map for residential, shopping, business or industrial use indicates only the proposed primary use for that area. Other uses which, in the opinion of the Council, are consistent with the primary use may be permitted. Where existing uses do not conform with the primary use allocation, there is, in most cases, no intention to disturb them during the period of the Plan". Paragraph 4 (b) "The Development Plan provides for the development of land for industrial purposes:-

(1) for the expansion of existing industrial firms in Hertfordshire, especially for those already in the particular locality and having regard to the relationship between the resultant additional employment and the proposals of the Development Plan for population increase in that area;

- (ii) for the resettlement of Hertfordshire firms unsatisfactorily sited except that planning permission will not normally be granted unless it is ensured that the firm's existing premises will be redeveloped in accordance with the County Development Plan;

NOTE: Planning permission for such expansion and relocation as mentioned in Paragraphs (i) and (ii) above will be subject to appropriate conditions to ensure so far as possible the continued occupation of the buildings permitted by Hertfordshire firms.

- (iii) for the movement of industry from the London conurbation into any County District, where there is, or where it appears that changing circumstances make it inevitable that there will be, persistent local unemployment due to an insufficient movement of industry from within the County to meet expanding local needs for employment or to absorb labour made redundant by changes in industry;
- (iv) subject particularly to the suitability of the type and nature of the proposed industry in relation to the site and its surroundings and also to satisfactory access, car parking, loading facilities and site coverage."

62. In that part of the Written Statement relating specifically to the Hazel Hempstead Area of the South Hertfordshire Town Map, six areas of land are allocated primarily for industrial use totalling 370 acres as well as certain smaller areas each less than five acres shown on the Town Map. A further area of unspecified acreage is indicated as being appropriate if suitable industrial expansion warranted its use.

63. It was no part of the council's policy to allow non-conforming uses to expand or consolidate on unsuitable sites, particularly where a large area of land had been allocated for industrial purposes.

64. There should be no difficulty in relocating this company on a more satisfactory site.

65. The council had no immediate proposals for redeveloping this area, but longer term prospects had to be considered. There was not likely to be any proposal by the local planning authority for the relocation of the appellant company.

66. The age and condition of much of the existing property in this area was such that the probability of redevelopment on a comprehensive basis, five to ten years hence, must become a distinct possibility.

67. Any new building intended for a use not in conformity with the primary land use allocation would prejudice the eventual realisation of an overall plan.

68. If the site was developed in isolation, it might accommodate two or four dwellings although its depth would be more valuable if part of a comprehensive scheme.

69. This new extension would have a life of at least sixty years and could prejudice future redevelopment.

70. The planning decision was intended to indicate to the appellants that expansion and consolidation was unacceptable and that if expansion was necessary then the time was ripe for considering movement of their non-conforming industry to a more suitable and appropriate site.

71. The decision was an informative and persuasive use of planning control, but the appellants had not approached the authority concerning an alternative site.

73. Neither the appellants nor other land users had objected to the First Review proposals. It would seem that the Minister was likely to confirm a primarily residential land use allocation where physically there was a predominance of residential property.

74. In 1957, consent was refused for the use of land between the backs of the properties on the south side of Kingsland Road and the river, including this site, for light industry.

75. In 1960, consent was refused for a pair of houses west of the site on land which was then part of the appellants' curtilage, but a subsequent outline application for two flats was granted conditional consent.

76. The appellants had sold the land when the detailed scheme was approved and in 1961 and 1962, consents were issued for two garages and 17 garages respectively with access over the land at the side of the appellants' premises.

77. Also in 1962, consent was refused for a shed to be used as a builder's registered office.

78. Light industry was not necessarily entirely incompatible with a primarily residential area but such mixture of uses must inevitably result in a loss of amenity to residents by reason of extra traffic, larger non-residential type buildings affecting the view, the number of persons and/or vehicles arriving at or leaving the site at certain times of the day, and the appearance of the premises in relation to surrounding residential property.

79. The proposed extension would not comply with the requirements for daylighting for residential areas, Planning Bulletin No. 1, and the recommendations by the Ministry of Housing and Local Government, and, if allowed, would result in a further loss of amenity to the occupiers of the adjoining property to the east. A new residential building about 14 feet high to the eaves would be built 10 feet 6 inches from the boundary with an adjacent residential curtilage, if placed in the position indicated.

80. If land formerly owned by the company had been retained, they could have undertaken development which need not have conflicted with daylighting requirements, and not completely wrecked whatever chance it might have had to obtain consent for a satisfactory extension adjacent to the factory.

81. Four additional persons would be employed and this would result in increased site activity with a consequent reduction in the amenities of the area.

82. The authority had sought to retain and improve amenities existing in the predominantly residential area including the consent for additional garages to ease local parking problems.

83. The access to the garage site was not wholly satisfactory, but the present ownership position had not existed when the outline consent was given.

84. The site was partly screened from the south by willow trees and shrubs, when they were in leaf.

#### APPLICATION FOR COSTS

#### THE APPELLANTS' STATEMENT

That it is never have been necessary for the  
of an

85. There were no just reasons to refuse consent and the council had acted irresponsibly and unreasonably, costs were therefore sought against the council.

#### THE COUNCIL'S REPLY

86. The council were staggered by the appellants' request for costs and if they had acted improperly they should be allowed, but the Borough Council, the development planning authority, had not done so.

87. There was a vital need to consider non-conforming uses and to make them conform as soon as possible.

88. It would have been wrong not to have allowed this to go to appeal.

89. The council sympathised with the appellants but had not been awkward or unreasonable.

90. They were now aware of the whole circumstances appertaining to the appeal business and were satisfied to leave the decision to the Minister, but it would be absurd for the council to be expected to meet the costs.

#### THE INSPECTOR'S OBSERVATIONS

91. In the past few years there have been changing circumstances appertaining to the ownership and possible use of land adjacent to this site and the council's action cannot be regarded as having been unreasonable, vexatious or frivolous.

#### FINDINGS OF FACT

92. I find the following facts:-

- (i) The site is in the southern part of an area of mainly residential development but here there are a number of non-residential uses including extensive saw mills fronting and accessible from Kingolina Road.
- (ii) The site not only includes an existing light industrial undertaking with a single storey floor space of 7,800 square feet, cubic content 42,000 cubic feet; but also the existing access intended to serve 17 lock-up garages on land now in separate ownership.
- (iii) This specialist, but long established company, employing 15 persons at these premises, and up to 15 outworkers living nearby, relies for 25% of its trade upon exports.
- (iv) In the submitted First Quinquennial Review of the South Hertfordshire Town Map, the site and surrounding land are allocated primarily for residential purposes, but are not programmed.
- (v) The Review also includes a nearby area of almost four acres of land allocated primarily for industry including that occupied by the saw mills while elsewhere in the Hazel Hempstead area are another 370 acres including vacant sites.
- (vi) There are no proposals to redevelop this area, nor to relocate this undertaking.

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## APPEARANCES

### FOR THE APPELLANTS

Mr. Howard Sharp, F.A.I.

- Surveyor and Valuer.

He called:

(1) Mr. L. W. Martin

- Appellants' Managing Director.

(2) Mr. W. F. Corfield, F.R.I.C.S.,  
F.L.A.S., F.A.I.

- Chartered Surveyor.

### FOR THE PLANNING AUTHORITY

Mr. H. B. Jones

- Deputy Town Clerk of  
Hemel Hempstead Borough  
Council.

He called:

(1) Mr. W. J. Grose, M.A. (Cantab.),  
A.M.I.Mun.E., A.M.T.P.I.

- Assistant Divisional  
Planning Officer of  
Hertfordshire County  
Council.

## DOCUMENTS

Document 1 - List of persons present at the inquiry.

" 2(i) and (ii) - Circulated notice and list.

" 3(i) and (ii) - Two letters raising no objection to the proposal, and  
another objecting to it.

" 4(i) and (ii) - Copy of application and schedule of customers.

## PLANS

Plan A - Extract from the Review of the County Development Plan.

" B - Site relative to the surrounding development and an area allocated  
for industry in the Review Plan.

" C - Site plan.

" D - Site plan and also referring to other planning decisions.

" E - Copy of detailed plan submitted with the planning application.

" F - A detail plan amended by Plan E.