



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line 0272-218247
Switchboard 0272-218811
Fax No 0272-218782
GTN 1374

Mr P A Armer
141 Barton Road
KETTERING
Northants
NN15 6RT

Our Ref:
APP/C/93/L2820/631190
Council Ref:
RC/KP/EN191

Date:

11 FEB 94

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 174 AND SCHEDULE 6
PLANNING AND COMPENSATION ACT 1991
LAND AT 37 BATH ROAD, KETTERING

1. I have been appointed by the Secretary of State for the Environment to determine your appeal against an enforcement notice issued by the Kettering Borough Council concerning the above mentioned land. I have considered the written representations made by you and by the Council and by an interested person. I inspected the site on 24 January 1994.

2. a. The notice is dated 25 October 1993.

b. The breach of planning control alleged in the notice is without the benefit of planning permission, the unauthorised change of use of a storeroom building and car sales display area associated with 37 Bath Road for the purposes of the unauthorised servicing and repair of motor vehicles.

c. The requirement of the notice is to cease fully the use of the storeroom building and car sales display area for the servicing and repair of motor vehicles and revert the use of those areas back to their former authorised uses.

d. The period for compliance with this requirement is 28 days.

GROUND'S OF APPEAL

3. The appeal is proceeding on grounds (a) and (b) set out at section 174(2) of the 1990 Act as amended by the 1991 Act, that is to say:

- (a) that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted;
- (b) that those matters have not occurred;

GROUND (b)

4. You say that only the storeroom has been used for servicing and repairing motor vehicles, and that the site is principally a car sales display area. The Council do not challenge that, and it accords with what I saw on my visit. There is a showroom plainly reserved for that purpose and an attractively laid out open display area which would not lend itself to car repair work. The Council say that they have selected the whole planning unit as the appropriate target for the notice, but on that basis there is an inconsistency. The car sales use remains, and so there should at least have been an allegation of a change to a mixed use including that.

5. A correction of the notice is called for, and I do not consider this would cause any injustice. The course I find most appropriate, and which I shall adopt, is to correct the notice so that the allegation made relates solely to the storeroom.

6. That accepts your argument, but because I can order this correction, it leaves a valid, corrected notice. The ground (b) appeal thus fails, and the planning merits remain for consideration.

GROUND (a) AND THE DEEMED APPLICATION

7. The effect of this use of the storeroom on the amenities of nearby residents is what is mainly at issue. That emerges from the representations and my visit, and it reflects the importance of such a question properly stressed in the development plan.

8. My description of the area is of mixed residential and commercial uses. It is a typical older inner urban area where terraces of houses are mingled with some quite large-scale industrial activities, and some smaller commercial ventures such as your own. I note that the storeroom itself is what was apparently the end house of the row in Digby Street, and now has a flat above it at first floor level. The premises are quite small - your comparison with a standard sized double garage seems about right to me.

9. I draw 3 conclusions. First, there are residential neighbours in close proximity who should be protected from any undue noise and activity from the premises. Secondly, those residents are accustomed to the usual consequences of living with commercial neighbours. That means, in my view, some expected tolerance of a degree of extra noise and people and vehicles coming and going, during the day-time at any rate. Thirdly, it is unlikely that the storeroom would be used for more than simple and routine mechanical adjustments to vehicles, such as might be carried out in any domestic garage. I note that is your present practice.

10. In the light of that, I do not see that permission need be withheld. To permit you to continue the present level of operation would not unduly disturb your residential neighbours. Suitable conditions, as suggested by the Council, would restrict the work on cars to the building, and during the day-time, and these restrictions can be incorporated. The Council would also like to see vehicle spraying prohibited and that appeals to me as a prudent precaution. With the correction to the notice, consent will only be given in respect of the storeroom, subject to these conditions. The original 1986 permission will also continue to prevent any repairs or servicing being carried out as part of the activities elsewhere on the land.

11. In reaching my decision to grant permission accordingly, I have assessed all other matters raised, but I have found nothing to prevent me taking this course. The ground (a) appeal succeeds.

FORMAL DECISION

12. For the above reasons, and in exercise of the powers transferred to me I hereby direct that the notice be corrected by the deletion in paragraph 3 of the words "and car sales display area".

Subject to that correction, I allow the appeal, direct that the notice be quashed and grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act for the development already carried out, namely the use of the storeroom building at 37 Bath Road, Kettering, as shown on the plan attached to the notice, for the servicing and repair of motor vehicles, subject to the following conditions:

1. The use shall not be carried on other than in the building.
2. The use shall not take place other than between the hours of 0800 and 1700 Mondays to Fridays, and 0800 and 1200 Saturdays.
3. No paint spraying shall take place.

13. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 57 of the 1990 Act.

14. The developer's attention is drawn to the enclosed note relating to the requirements of the Building Regulations 1991 with respect to access for disabled people.

RIGHT OF APPEAL AGAINST DECISION

15. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision are enclosed for those concerned.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'J. M. Turner', written in a cursive style.

J M TURNER LLB Solicitor
Inspector

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