



Department of the Environment

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H. C. C.
COUNTY SECRETARY
-5 MAR 1981
RECEIVED

LPA Ref: RS/SCW PL/BF.25

Messrs Breeze and Wyles
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Your reference		GVH/ABS/PE.8	
COUNTY PLANNING		66/Reference	
HERTS		12 MAR 1981	
Refer	S	Date	11 4th MARCH 1981
Att.	PTA		
File			

APP/5059/C/80/441
APP/5251/C/80/469
APP/5251/A/80/01164

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTIONS 36 AND 88
LAND AT CHURCH LANE GRAVEL PIT, WORMLEY, HERTS
APPEALS BY C G EDWARD (GOFFS OAK) LIMITED

*Notes effect 15th APRIL 1981
ie SIX WEEKS AFTER SO'S Decision
to allow appeal to High Court
and hence IC of enforcement
Notice is "2 yrs to restore land for
15th April 1981" ie 15th APRIL 1981*

1. I am directed by the Secretary of State for the Environment to refer to the report of the Inspector, Mr T G Lawrence, BA, who held a local inquiry into your clients' appeals against:-

a. an enforcement notice (Notice A) served by the Hertfordshire County Council relating to the failure to comply with conditions subject to which planning permission was granted on 30 June 1949 for the extraction of sand and gravel from land at Church Lane Gravel Pit, Wormley, and also subject to which planning permission was granted on 2 January 1968 for the continued use of part of the land at Church Lane Gravel Pit, Wormley, for the preparation of soil for horticulture: the conditions of the 1949 planning permission required:-

i. that excavation of sand and gravel be completed within the period of 30 years from the date of the first planning permission;

ii. that the excavation be completely refilled to the level of the surrounding ground, covered with a surface layer of soil not less than 12 ins deep capable of supporting plant life and the initial cultivation of the site to the satisfaction of the local planning authority, such restoration to be completed within a period of 30 years from the date of the first planning permission; and

iii. that on completion of the filling, the footpath coloured brown on the attached plan be restored and reinstated".

(Conditions 5, 6 and 8) and the condition of the 1968 planning permission required that the use then permitted be terminated on or before 30 June 1979;

b. an enforcement notice (Notice B) served by the Broxbourne Borough Council relating to the use of land at Church Lane Gravel Pit, Wormley, for storing/keeping thereon building materials, skips and scrap iron including motor vehicle bodies; and

- c. the decision of the Broxbourne Borough Council to refuse planning permission for the continued use of land at Church Lane Gravel Pit, Wormley, for the preparation of soil for horticulture, together with landscaping of the site.
2. The appeal against Notice A was on the grounds set out in Section 88(1)(a) and (g) of the Town and Country Planning Act 1971 and the appeal against Notice B was on the grounds set out in Section 88(1)(a) and (b).
3. A copy of the Inspector's report of the Inquiry is annexed to this letter. His conclusions are set out in paragraphs 63 to 68 of the report and his recommendations in paragraph 69. The report has been considered.

SUMMARY OF THE DECISION

4. The formal decision is set out in paragraphs 10 to 12 below. The appeal against Notice A fails: the enforcement notice is upheld, subject to variation, and the conditions to which it relates are not discharged. The appeal against Notice B succeeds and the enforcement notice is quashed. The appeal under Section 36 of the 1971 Act is dismissed.

REASONS FOR THE DECISION

5. In support of the appeal on ground (b) against Notice B it was submitted on behalf of your clients that the articles referred to in the notice were on the land for purposes incidental to uses of the land which were authorised until the 1949 and 1968 planning permissions expired: it was maintained that their presence on the land did not involve a material change of use and that they could not be regarded as being on the land for a separate storage use. It was claimed that their presence on the land was immaterial in relation to the major issues affecting it, as the scale involved was so small.
6. The Inspector found as facts, which are accepted, that at the time the site was inspected by a borough council officer there were some heaps of granite sets, concrete blocks and kerb stones, an old lorry, a vehicle body, disused plant and 7 empty skips there: except for the skips these articles were still on the site when inspected by the Inspector. There was no evidence that any of the objects were brought to the site other than in connection with the reclamation of the pit or the use for soil processing.
7. With regard to the appeal on ground (b) against Notice B the Inspector concluded:-

"It seems to me that Mr Edward's explanation, that the skips were on the site for short periods only and were left there by tipping contractors in the course of their tipping operations, that the "scrap iron and motor vehicles" are vehicles and machinery which have been used previously in connection with the 1949 and 1968 planning permissions and are now used for spares for machines working on the site, and that the "building materials" were in fact materials recovered from the tipped fill for use for internal site roads or, in a few instances, for sale, is a credible and satisfactory answer to the allegation, particularly in view of the negligible amounts involved. However, when Notice B was served the planning permissions had expired and so, although in my view the uses referred to in the notice were merely incidental to the previously

- c. the decision of the Broxbourne Borough Council to refuse planning permission for the continued use of land at Church Lane Gravel Pit, Wormley, for the preparation of soil for horticulture, together with landscaping of the site.
2. The appeal against Notice A was on the grounds set out in Section 88(1)(a) and (g) of the Town and Country Planning Act 1971 and the appeal against Notice B was on the grounds set out in Section 88(1)(a) and (b).
3. A copy of the Inspector's report of the Inquiry is annexed to this letter. His conclusions are set out in paragraphs 63 to 68 of the report and his recommendations in paragraph 69. The report has been considered.

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REASONS FOR THE DECISION

5. In support of the appeal on ground (b) against Notice B it was submitted on behalf of your clients that the articles referred to in the notice were on the land for purposes incidental to uses of the land which were authorised until the 1949 and 1968 planning permissions expired: it was maintained that their presence on the land did not involve a material change of use and that they could not be regarded as being on the land for a separate storage use. It was claimed that their presence on the land was immaterial in relation to the major issues affecting it, as the scale involved was so small.
6. The Inspector found as facts, which are accepted, that at the time the site was inspected by a borough council officer there were some heaps of granite sets, concrete blocks and kerb stones, an old lorry, a vehicle body, disused plant and 7 empty skips there: except for the skips these articles were still on the site when inspected by the Inspector. There was no evidence that any of the objects were brought to the site other than in connection with the reclamation of the pit or the use for soil processing.
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inextricably mixed with their objections to the tipping required to restore the site and to the continuing gravel extraction and convincing evidence of real harm to local amenities other than from the use's contribution to the number of lorries using the inadequate approach by Church Lane was not forthcoming. Weighing up these considerations and other points made at the inquiry it is not my opinion that they suffice to justify deferring the restoration of the whole site after so many years of use in conflict with the character of the surrounding countryside and with the provisions of the Development Plan.

I was satisfied from my inspection and from the evidence that the pit is almost completely worked out and that there is no economic justification, after 30 years of use, to prolong the permitted period of exploitation. No reasons were given why the footpath should not be reinstated when the rest of the site is restored. I therefore consider, on ground 88(1)(a) of the appeal against Notice A that the conditions on which the notice is founded should not be discharged and that the appeal against the refusal of planning permission for continuation of the use of the site for the preparation of soil for horticulture should be dismissed".

These conclusions are accepted. For the reasons the Inspector gives it is not proposed to discharge the conditions to which Notice A relates or to grant planning permission for the continued use of the land for the preparation of soil for horticulture. The appeals on ground (a) against Notice A and under Section 36 of the 1971 Act fail.

9. On ground (g) of the appeal against Notice A the Inspector concluded:-

"Although the appellants would prefer to continue to scrape the pit for remnants of gravel and sand deposits in their present rather desultory fashion they did not put forward any telling reasons why the period given in requirement 1(a) of the notice should be extended. I consider the 28 days given in the notice is a reasonable period in which to cease excavations. The same period was given in requirement 1(b) to cease the preparation of soil for horticulture but, having seen the volume of soil already maturing on the site, taking into account the time required for composting and bearing in mind the evidence given about the severe difficulties of finding an alternative site for this use, I regard the 28 days given as unreasonably short. It is too brief to allow the appellants to run-down this aspect of their business and complete contracts without unnecessary loss and too brief to permit them to transfer the operations to another site, if one can be found. I consider that the period could be extended to at least 6 months without hindering restoration works on the site. Requirement 1(c) gives 2 years for the restoration required by the 1949 permission. Although there may still be some doubt about the amount of fill still needed to complete restoration it was not disputed that suitable fill could be attracted to the site within this period, although this would involve a heavy increase in lorry traffic on the inadequate approach to the site by Church Lane. In my opinion it would be preferable to complete the site restoration as quickly as possible rather than spread it over a longer period and I regard the 2 year period given as reasonable. If the recovery is to be completed in 2 years there is no reason why the footpath should not be reinstated in the same period (requirement 1(d)). None of the requirements of the notice are in my opinion excessive".

These conclusions are also accepted. For the reasons the Inspector gives the period for compliance in requirement 1(b) of the notice will be extended to 12 months under the provisions of Section 88(5) of the 1971 Act. Otherwise, however, the appeal against Notice A fails on ground (g).

FORMAL DECISION

10. For the reasons given above the Secretary of State hereby directs that Notice A be varied in requirement 1(b) by the deletion of the words "twenty-eight days" and the substitution therefor of the words "twelve months". Subject thereto the Secretary of State dismisses the appeal against Notice A: he upholds the notice and refuses to discharge the conditions to which it relates.

11. For the reasons given above the Secretary of State allows the appeal against Notice B and hereby directs that the notice be quashed.

12. For the reasons given above the Secretary of State hereby dismisses the appeal under Section 36 of the 1971 Act.

RIGHT OF APPEAL AGAINST DECISION

13. This letter is issued as the Secretary of State's determination of the appeals. Leaflet B enclosed for those concerned sets out the right of appeal to the High Court against the decision and the arrangements for the inspection of documents appended to the Inspector's report.

I am Gentlemen
Your obedient Servant

K W BEARE
Authorised by the Secretary of State
to sign in that behalf

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