



MINISTRY OF HOUSING & LOCAL GOVERNMENT

Whitehall, LONDON, S.W.1

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Please address any reply to THE SECRETARY and quote: APP/1219/C/10161 and 10464. Your reference: JKF/VC.

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Gentlemen,

Town and Country Planning Act 1962 - Section 46
Land at Church Lane, Wormley
Appeals by Messrs C.G. Edward (Goffs Oak) Limited

1. I am directed by the Minister of Housing and Local Government to refer to the report of the Inspector, Mr. R. Woodford, Dip. T.F., A.M.T.F.I., who held a local inquiry into your clients' appeals against enforcement notices served by the Hoddesdon Urban District Council, acting on behalf of the Hertfordshire County Council, relating to:-

- (1) the erection of a building within the site of a gravel pit on the north side of Church Lane, Wormley. (Enforcement Notice No.1);
- (2) the use of the premises and land on the north side of Church Lane, Wormley, for the preparation of soil for horticulture. (Enforcement Notice No.2).

2. Your clients appealed against the enforcement notices on the grounds set out in section 46(1)(c), (d), (e), (f) and (g) of the 1962 Act, but at the inquiry ground (a) was added and the other grounds were withdrawn.

3. The Inspector, a copy of whose report is enclosed, concluded that while the legal grounds of appeal had been withdrawn and the legal implications of the facts were matters for legal advice the circumstances of the appeal led him to the opinion that the use for the preparation of soil compost in the small quantity of up to 400 cubic yards per annum was so closely allied to the permitted uses of the pit for the extraction of sand and gravel and the tipping of materials including soil, and also to your clients' functions as nurserymen, for which purpose they held and occupied the appeal site, that it was not materially different from either. He therefore considered that it did not involve development requiring planning permission, and that the structure within which the use was conducted was permitted development by virtue of both Class VI and Class XVIII of Schedule I to the Town and Country Planning General Development Order 1963. If his view of the legal position was incorrect and development was involved, then he took the view that the development was fundamentally a green belt use, being closely allied to horticulture, and that it did no harm to local amenities and was unlikely to materially affect traffic conditions in Church Lane. Whilst the planning authority's concern to ensure that the pit was restored to agricultural use by 30th June 1979 was understandable, he did not think that the grant of a limited period permission as requested by your clients would prejudice this aim. If it was decided that development requiring planning permission was involved, he recommended that the notices be quashed and that permission be granted for the building and/or the use for the preparation of soil, subject to conditions designed to ensure that the building be removed and the use terminated not later than 30th June 1979.

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Messrs J.Kay and Company,
Surveyors,
258/260, High Street,
Waltham Cross,
Hertfordshire.



The evidence given at the inquiry and the Inspector's findings of fact and conclusions have been considered. The appeal site is part of the concrete base of a gravel screening plant at the foot of a gravel pit and the building to which enforcement notice No.1 relates is a lean-to roof over this area. Your clients purchased the gravel pit, which has the benefit of a planning permission for the excavation of sand and gravel until 30th June 1979, in 1964, and now make about 400 cubic yards of compost a year on the appeal site, part of which is used in connection with their nursery garden activities and part of which is sold. Your clients' appeals on grounds (c) and (d) were withdrawn at the inquiry but the question of whether or not development requiring planning permission is involved has nevertheless been considered. The Inspector's conclusions that development was not involved in the change of use and that the erection of the structure was permitted development are not accepted, nor is it considered that the use of land for the preparation of horticultural compost is of itself an agricultural use of that land. The view is taken that the introduction of this use involved a material change of use constituting development for which planning permission was required and that the erection of the lean-to structure was also development requiring planning permission. On the planning merits of the appeal the Inspector's conclusions are accepted that this development is not harmful to local amenities nor is it likely to have a material effect on traffic conditions in Church Lane, and it is proposed to grant planning permission for the retention of the building and for the continuation of the use until 30th June 1979 in accordance with his recommendation on the application deemed to be before the Minister under the provisions of section 64(2) of the 1962 Act.

5. Accordingly, the Minister allows your clients' appeals and directs that the enforcement notices be quashed. He hereby grants permission for the continuation of the use of land comprising part of the gravel pit on the north side of Church Lane, Wormley, for the purpose of the preparation of soil for horticulture and also for the retention of the building on the said land, subject to the condition that this use of the land be terminated and the building removed on or before June 30th 1979.

6. Your clients' application for an award of costs is receiving attention and a further letter will be sent to you in due course.

7. This letter is issued as the Minister's determination of the appeals. An appeal against this decision may be made to the High Court on a point of law under the provisions of section 180 of the Act.

8. This letter does not convey any approval or consent required under any enactment, byelaw, order or regulation other than section 13 of the Town and Country Planning Act 1962.

I am, Gentlemen,
Your obedient Servant,

(R.W.BARTON)
Authorised by the Minister
to sign in that behalf.