



J/P
**Department of the Environment and
Department of Transport**

Common Services

Room 1408

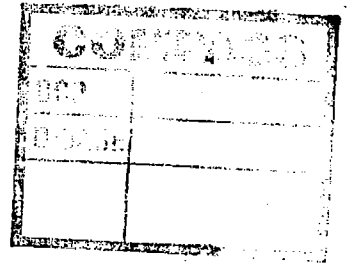
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Your reference

JRQ/IRB/69JQ

Our reference

T/APP/N5660/A/84/16949/P6

Date N5660/A/85/26846/P6

17 SEP 85

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEALS BY THE NATIONAL FREIGHT CONSORTIUM PLC
APPLICATION NOS: 1916/83/21142/9 AND 1838/84/21142

1. I have been appointed by the Secretary of State for the Environment to determine these appeals against:

A. the refusal of Lambeth London Borough Council to permit the erection of a DIY retail unit for Texas Homecare and an industrial building for Cow Industrial Polymers (Application No. 1916/83/21142/9);

B. the failure of Lambeth Borough Council to give notice within the prescribed period of their decision on an application for outline planning permission for the erection of a DIY retail unit for Texas Homecare together with industrial units (Application No. 1838/84/21142);

on land at Streatham Vale, Streatham. I held a local inquiry into the appeals on 23-25 July 1985.

2. The appeal site is a 5.3 acre (2.14 ha) strip of generally level disused land lying between a busy railway line and the rear of terraced dwellings which front Glenister Park Road. It has a frontage of about 100 ft (30 m) on the south-eastern side of B272 Streatham Vale and also runs behind a row of 11 small unit shops in that road. These shops are part of the Streatham Common Station Neighbourhood Shopping Centre along Streatham Vale and its north-eastern continuation Greyhound Lane. The surrounding area is primarily residential.

3. Appeal A arises from an application for full planning permission for the erection of a DIY retail unit of total floorspace 30,625 sq ft (2,845 sq m) and an industrial building of 53,530 sq ft (4,973 sq m) including ancillary offices. Although the prospective occupants of both buildings were named in the application, Cow Industrial Polymers are not committed to occupy the industrial building. Therefore another application was made, this time for outline planning permission for the erection of a DIY retail unit of the same area and with the same named occupant but an industrial building of 45,210 sq ft (4,200 sq m) without the occupant being identified. In correspondence it was made clear that the detailed plans accompanying this application were illustrative only and that all of the usual 5 matters of detail were reserved for later approval should outline permission be granted. Whilst the Council decided to refuse permission for the same reasons as in the case of the first application, no notice of refusal was issued because Appeal B had already been lodged.

4. Local residents have reservations about the acceptability of industrial development on the appeal site, particularly if it were to comprise a large number of separately occupied units, but there is no substantive objection to the industrial element of either proposal. The Council's objections to the DIY retail unit are related to the loss of land suitable for industrial development and to the difficulty of providing an acceptable access. There are no objections on the grounds that the DIY retail unit would be in a location otherwise inappropriate for this type of retailing, that it would have unacceptable effects on the viability of existing shopping centres or on residential amenities, that car parking provision would be inadequate or that the capacity of the existing road network is insufficient for the additional traffic.
5. From my inspection of the site and surroundings and from the representations made, I am of the opinion that the principal issues to decide in the case of each appeal are whether the DIY retail unit would involve an unacceptable loss of land suitable for industrial development and associated employment opportunities and whether the development would result in an unacceptable hazard to vehicles and pedestrians.
6. Policies SHP4 and SHP7 of the amendments to the Greater London Development Plan (GLDP), published after consultation, list criteria which must be satisfied by large out-of-centre shopping developments. The July 1984 Lambeth Local Plan, placed on formal deposit in 1984, contains Policy S20 which also lists criteria to be met by large non-food retail developments. The dispute about whether the proposed development meets the criteria of these policies is essentially concerned with the need to ensure that adequate and suitable land is available for industry. In that respect the relevant criteria reflect paragraph 19 of Development Control Policy Note 13 which includes the advice that "shopping developments should not be undertaken on land which is or will be required for industry", although Policy S20 is phrased in terms of "higher employment generating use" rather than industrial use specifically.
7. Following consideration by the Council of objections to the Local Plan, modifications to some policies have been published. Certain policies which it is intended to modify, including Policy EM8, have not been so published because details of the new wording have not yet been finalised. The modified Policy EM8 has been agreed in principle by committees of the Council and to my mind the original Policy EM8 of the July 1984 Local Plan must be considered superseded. However, the inflexibility of the modified policy, in seeking without exception to prevent any redevelopment of industrial land for other uses unless the site is no longer suitable for industrial use, is not entirely compatible with the reason given in support of modified Policies EM8 and EM9.
8. The reason refers to the high priority given to the retention of manufacturing industry as it "generally gives rise to higher employment densities than other industrial or commercial uses and provides employment best suited to the range of occupational skills of the Borough's workforce and its unemployed". However, the reason goes on to recognise "a need to meet the floorspace demands of the many service activities which are essential to the economy of the Borough, both in terms of the services they provide and the employment they generate". In the light of that reason for Policies EM8 and EM9, and bearing in mind that the wording of those policies is yet to be finalised for further publication before, during or after the October 1985 inquiry into objections to the Local Plan, I accept that the principles of the proposed new Policy EM10 are also material considerations. That policy permits the change of use of industrial land to other employment generating uses if any one of 4 criteria are satisfied, the first being that "The proposed use provides

for an employment density comparable to that normally expected from industrial development". Policy EML3 aims at densities better than one full-time job/400 sq ft (37 sq m).

9. The appeal site is shown in the Initial Development Plan as a Goods Station, but that use ended in about 1969. Since then there have been a number of temporary planning permissions for various uses. Permissions have also been granted for permanent development including industrial units, but they have not been implemented. The site is not identified for industry in the Local Plan and is not in active industrial use. However, I accept the Council's submission that the site qualifies as industrial land in the terms of the policies because it has planning permission for industry and for years has been treated by the Council as an industrial site. The common thread running through the various policies, however expressed, is that the most should be made of the employment generating opportunities afforded by land suitable for industry. It is against that background that I have considered the mass of evidence on employment densities, unemployment in Lambeth, the likely employment in the DIY retail unit, the availability of land for industry and the attempts to market the appeal site for industrial use.

10. In the Borough as a whole the supply of land suitable for industry is more limited than in some nearby London Boroughs, and is particularly restricted in South Lambeth. There is evidence of a recent increase in the demand for industrial floorspace in Lambeth, even if the sale of one exceptionally large unit for primarily storage use is disregarded. However, I am not convinced that there is a strong and continuing trend to occupy land and buildings for industrial purposes. On the evidence concerning the marketing of and the interest in the appeal site, and notwithstanding the site's ready availability, I am inclined to the view that there is little prospect of the whole of the land being used for industry in the near future.

11. Looking to the longer term future, it would be unfortunate if a sustained economic recovery and the provision of jobs in the Borough were hampered because land suitable for industry had been squandered on development which did not provide a comparable amount of employment. Bearing in mind the increasing estimates which you have put forward since the submission of the first application, I can understand the Council's scepticism about the number of jobs which would be provided at the DIY retail unit. Nevertheless I accept that the favourable trading circumstances would be likely to result in employment approaching the equivalent of 85 full time jobs. There is no other site available in Lambeth where the DIY retail unit could be built to provide these jobs in addition to industrial employment on the appeal site. It may be that an industrial development would provide more jobs, but only a few more could be expected and they could not be guaranteed. I recognise that the ratio of unemployed persons to vacancies is 45:1 in manufacturing and "only" 20:1 in selling occupations, but jobs in the latter occupation would assist in reducing the overall high rate of unemployment in Lambeth even if people formerly employed in other occupations were unable to take advantage of opportunities to re-train.

12. The likelihood of a substantial number of jobs being provided quickly in retailing on part of the appeal site has to be weighed against the uncertain prospect of possibly a slightly greater number of industrial jobs being provided at some time. The provision of the infrastructure for the DIY retail unit might encourage development of the rear half of the site for industry as proposed in either application. It appears to me that either of the proposed developments would be likely to stimulate economic growth and the provision of employment. The benefits would outweigh the longer term risk of displacing a use with higher employment density. I therefore conclude that the DIY retail unit would not involve an unacceptable loss of land suitable for industrial development and associated employment opportunities. Department of the Environment Circular 14/85 and the White Paper "Lifting the Burden" were not mentioned at the inquiry. However, I am

satisfied that my conclusion is fully compatible with their emphasis on promoting enterprise, encouraging employment and providing the right conditions for economic growth.

13. The proposed access to the development would be from a length of Streatham Vale which is on a considerable gradient down from the railway bridge. The bridge affects visibility for traffic approaching from the north-east. The carriageway of the main road is not particularly wide and the traffic movements are complicated by the junctions of Aberfoyle Road and Eardley Road. There would be difficulties in providing a satisfactory access to the appeal site, whether for one of the developments now proposed or for an entirely industrial development. In connection with the latter, the Council have accepted a simple priority junction. However, for the proposed development it is now agreed that signal control would be necessary for the cross-roads of the proposed access and Aberfoyle Road with Streatham Vale. The dispute is about whether a satisfactory signal controlled junction can be provided. I appreciate that there would be no point in granting a permission which relied on the Council's outline design, as acquisition of the necessary land would be impracticable in the foreseeable future. I have therefore based my detailed considerations on the scheme which you have put forward.

14. Amongst the factors mentioned at the inquiry were the cycle time of the signals, the provision of a full pedestrian phase, the width of public footway alongside the forecourt of the 11 unit shops, the length and widths of the 2 lanes approaching the junction from the north-east, whether both of those lanes should be available for vehicles continuing along Streatham Vale, the need for those vehicles to depart from a straight path, the provision and positioning of a refuge or island on the approach from the south-west, the radius of the kerb around the southern corner of the junction and the provision of railings around that corner. There is interaction between these factors and it is not for me to decide the optimum arrangement. However, I am inclined to the view that a full pedestrian phase would be unnecessary as there would be adequate gaps during which pedestrians could cross Aberfoyle Road and the site access. If that were found not to be so, a full pedestrian phase could be introduced without absorbing all of the reserve capacity. On the information available, the right hand land of the approach from the north-east would be adequate, although initially rather narrow. The most intricate problem would lie in ensuring that the drivers of vehicles passing through the junction from north-east to south-west were aware of the appropriate path to follow. In my opinion the fact that the path would not be straight is by no means fatal to the scheme. It should be possible in a final design to arrange details of the signs, road markings and kerbs to provide adequate guidance for drivers.

15. In terms of the proportion of accidents involving right-turning vehicles, the present junction of Aberfoyle Road and Streatham Vale has a bad record. This could well be improved by signal control. The overall scheme based on your proposal would fall short of the ideal signal controlled junction which might be provided if there were no land-ownership constraints. However, in my opinion it would be a practical scheme which would cope satisfactorily with the existing and likely additional traffic. I note that you and the Council have reached agreement concerning the funding of a signal controlled junction and associated works. Taking into account the advice in paragraphs 33 and 34 of the Annex to Department of the Environment Circular 1/85, it appears to me that an appropriate condition, requiring the approval of details of the junction and consequential highway works before commencing the development and prohibiting occupation of the buildings until the approved junction and works have been provided, may be attached to a planning permission. Subject to such requirements, I find that the development would not result in an unacceptable hazard to vehicles or pedestrians.

16. The presumption in favour of granting planning permission unless there are sound and clear-cut reasons for refusal has been re-stated in Circular 14/85. In each of the present cases, I find that there is insufficient reason to refuse conditional planning permission. Conditions are necessary to require the submission and approval of details not shown on the application drawings, the protection of the few trees on the site in order to assist landscaping adjacent to the Glenister Park Road dwellings, and the provision of parking and turning space. For the avoidance of doubt, I shall attach to both permissions, and not only to the second as suggested, a condition precluding special industrial use of the industrial buildings. Bearing in mind the concern expressed by the Streatham Vale Property Owners' Association about the adverse effects on residential amenities of activity outside the industrial buildings, I shall also attach to both permissions a condition prohibiting external storage and working. Because the traffic generation and car parking requirements of certain types of large retail stores are substantially greater than those of the DIY unit proposed and could be excessive at this site, it is necessary to restrict the right to change to other types of retail unit. I shall adopt for this purpose a condition on the lines of that suggested at the inquiry. On the other hand I am not satisfied that the suggested condition precluding loading or unloading other than within the curtilage of the site is either necessary or enforceable. In considering the principles and wording of the conditions, I have taken into account the guidance of Department of the Environment Circular 1/85. I have considered all of the other matters raised and the wealth of detail produced, including the detailed history of the appeal site, the Greater London Council's comments on the provision of a signal controlled junction, and the appeal decisions concerning a proposed DIY store in Macclesfield and a convenience goods superstore in Streatham High Road, but they do not outweigh the factors which have led me to my conclusions.

17. For the above reasons and in exercise of powers transferred to me, I hereby allow both of these appeals and:

A. I grant planning permission for the erection of a DIY retail unit for Texas Homecare and an industrial building for Cow Industrial Polymers on land at Streatham Vale, Streatham, in accordance with the terms of the application (No. 1916/83/21142/9) dated 7 October 1983 and modified by letter dated 27 October 1983, and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
2. development shall not begin until details of the junction between the proposed service road and Streatham Vale, including consequential highway works, have been submitted to and approved by the local planning authority; and no part of any building shall be occupied until that junction and those works have been constructed in accordance with the approved details;
3. development shall not begin until there have been submitted to and approved by the local planning authority:
 - a. full details of the means of enclosure of the site;
 - b. a plan showing the locations, species and sizes of all existing trees on the land, and details of measures for their protection during the course of the development unless their removal is approved by the local planning authority;
 - c. full details of the species and locations of new shrub and tree planting;
 - d. full details of the facing materials to be used on the buildings;

4. no building or part of a building shall be occupied until the vehicle parking and turning spaces associated with that building have been provided in accordance with the approved drawings, and those areas shall not thereafter be used for any purpose other than the parking and turning of vehicles;

5. any new shrubs and trees approved pursuant to Condition No. 3(c) shall be planted not later than the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority give written consent to any variation;

6. the retail unit hereby permitted shall be used for the retailing of goods for DIY home and garden improvements and car maintenance, building materials and builders' merchants goods and for no other purpose (including any other purpose in Class I of the Schedule to the Town and Country Planning (Use Classes) Order 1972 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order);

7. the industrial building hereby permitted shall not be used for special industrial purposes within Classes V-IX inclusive of the Schedule to the Town and Country Planning (Use Classes) Order 1972 or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order;

8. no industrial operation nor any storage associated with the industrial building shall take place on the site other than within the building hereby permitted.

B. I grant outline planning permission for the erection of a DIY retail unit for Texas Homecare together with industrial units on land at Streatham Vale, Streatham, in accordance with the terms of the application (No. 1838/84/21142) dated 19 September 1984 and the site location plan submitted therewith, subject to the following conditions:

1. a. approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority;

b. application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this letter;

2. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

3. development shall not begin until details of the junction between the access and Streatham Vale, including consequential highway works, have been submitted to and approved by the local planning authority; and no part of any building shall be occupied until that junction and those works have been constructed in accordance with the approved details;

4. development shall not begin until there have been submitted to and approved by the local planning authority:

- a. full details of the treatment of parts of the site not covered by buildings (including details of means of enclosure);
- b. full details of the extent and locations of car parking, turning space, and provisions for loading and unloading vehicles and picking up and setting down of persons calling at the premises;
- c. a plan showing the locations, species and sizes of all existing trees on the land, and details of measures for their protection during the course of the development unless their removal is approved by the local planning authority;

5. no building or part of a building shall be occupied until the vehicle parking and turning spaces associated with that building have been provided in accordance with the details approved pursuant to Condition No. 4(b), and those areas shall not thereafter be used for any purpose other than the parking and turning of vehicles;

6. any new shrubs and trees included in the landscaping scheme approved pursuant to Condition No. 1 shall be planted no later than the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority give written consent to any variation;

7. the retail unit hereby permitted shall be used for the retailing of goods for DIY home and garden improvements and car maintenance, building materials and builders' merchants goods and for no other purpose (including any other purpose in Class I of the Schedule to the Town and Country Planning (Use Classes) Order 1972 or in any other provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order);

8. the industrial units hereby permitted shall not be used for special industrial purposes within Classes V-IX inclusive of the Schedule to the Town and Country Planning (Use Classes) Order 1972 or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order;

9. no industrial operation nor any storage associated with the industrial units shall take place on the site other than within the buildings hereby permitted.

18. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission and for approval of the reserved matters referred to in this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

19. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

20. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

I am Gentlemen
Your obedient Servant

J. E. Acton.

J E ACTON BSc CEng MICE FIHT
Inspector

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APPEARANCES

FOR THE APPELLANT

Mr D Robins of Counsel

- Instructed by McKenna & Company,
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He called:

Mr A H Lyons DipEstMan

- Development Director, National
Freight Consortium plc.

Mr M E T Thorncroft
BSc(EstMan) FRICS

- Planning Consultant.

Mr A E Watson
ARICS DipTP MRTPI

- Planning Consultant.

Mr A Boreham
CEng MICE MIHT DipTE DMS

- Consulting Engineer.

FOR THE PLANNING AUTHORITY

Mr C J Whybrow of Counsel

- Instructed by the Chief Solicitor
Lambeth London Borough Council.

He called:

Mr A Stacey
BSc CEng MIEE DipTE

- Chief Engineer (Traffic), London
Borough of Lambeth.

Mr B Jones
BSc(EstMan) ARICS

- Assistant Chief Planning Officer,
London Borough of Lambeth.

INTERESTED PERSONS

Streatham Vale Property Owners' Association

Mr R A Sly

- General Secretary, Streatham
Vale Property Owners' Association,
14 Drakewood Road, Streatham
Vale, London SW16

Mr R Chapman

- Lambeth Planning Resource Centre,
23 New Park Road, London SW2 4DU

Ward Councillor

Councillor R Bruce

- 107 Ellison Road, London SW16

Local Resident

Mr B Payne

- 31 Glenister Park Road, Streatham
Vale, London SW16

DOCUMENTS

- Document 1 - List of persons present at the inquiry.
- Document 2 - Letter notifying persons of the inquiry.
- Document 3 - Extract from M23 (Northern Terminal East and West Link Road Side Roads) Order 19
- Document 4 - Letter of 1 May 1985 from Richard Ellis.
- Document 5 - Shopping policies.
- Document 6 - Locations of Texas stores.
- Document 7 - Proposed DIY product range.
- Document 8 - Bulky and heavy products.
- Document 9 - Present pattern of DIY stores (Plan R refers).
- Document 10 - Social and economic features of trade area in 1981.
- Document 11 - Attraction of DIY trade.
- Document 12 - Extract from Lambeth Local Plan Modified Policies.
- Document 13 - Appellants' traffic generation analysis.
- Document 14 - Traffic generation data.
- Document 15 - Correspondence concerning traffic matters, including table of traffic generation rates and calculation of traffic signal junction reserve capacity.
- Document 16 - Index and London Borough of Lambeth Documents LBL1-LBL23, LBL25-LBL33 and LBL36-LBL45.
- Document 17 - Index and London Borough of Lambeth additional Documents LBL46-LBL56 (including LBL46a).
- Document 18 - Index and London Borough of Lambeth further Documents LBL57-LBL64.
- Document 19 - Letter of 18 October 1984 from Mr M Thorncroft.
- Document 20 - Lambeth Local Plan policies as amended April 1985 and June 1985 by Town Planning Committee.
- Document 21 - Lambeth London Borough Council's Tables 1-9.
- Document 22 - Lambeth London Borough Council's Table 6A.
- Document 23 - Table of principal changes in industrial land from March 1984 to March 1985.
- Document 24 - Premises let or sold in 1985.
- Document 25 - Suggested planning conditions.

- Document 26 - Letter of 25 July 1985 from appellants' solicitors.
- Document 27 - Letter of 5 July 1985 from Streatham Vale Property Owners' Association.
- Document 28 - Statements of the activities, interests and rules of the Streatham Vale Property Owners' Association.
- Document 29 - Issues of "Vale Topics", January-July 1985.

PLANS

- Plan A - 1:2500 scale site location plan.
- Plan B - 1:500 scale site plan No 1758 P(--)001
- Plan C - 1:200 scale DIY unit floor plans No. 1758 P(--) 002
- Plan D - 1:100 scale elevations No. 1758 P(--)005 Revision 5 dated 17 July 1983.
- Plan E - 1:200 scale DIY unit elevations No. 1758 P(--) 005 Revision -5 dated 10 October 1983.
- Plan F - 1:500 scale site layout No. 1221D.102B
- Plan G - 1:200 scale elevations No. 1221D.103A
- Plan H - 1:200 scale ground and first floor plans No. 1221D.104B

Note: Plans A-H are the application plans included in Application No. 1916/83/21142/9.

- Plan K - 1:2500 scale site location plan.
- Plan L - 1:500 scale site plan No. 1758 P(--) 001 Revision D.
- Plan M - 1:200 scale DIY unit floor plans No. 1758 P(--) 002
- Plan N - 1:200 scale DIY unit elevations No. 1758 P(--) 005

Note: Plan K is the application plan for Application No. 1838/84/21142. Plans L-N are illustrative for that application.

- Plan P - 1:1250 scale site location and road network plan No. ARB1
- Plan R - Main trade area and locations of DIY stores (Document 9 refers).
- Plan S - 1:500 scale plan of proposed highway arrangements (Drg No. 8515/B).
- Plan T - 1:500 scale plan showing land required in connection with the possible signalled junction (based on Plan Y).
- Plan U - Extracts from 1:1250 Ordnance Survey sheet and Initial Development Plan, Drg. No. LBL 100.
- Plan V - 1:2500 scale plan of appeal site and surrounding, Drg No. LBL 101.

- Plan W - 1:500 scale plan of Option No. 1 for proposed new access, September 1980, reference LBL 102.
- Plan X - 1:500 scale plan of Option No. 2 for proposed new access, August 1981, reference LBL 103.
- Plan Y - 1:500 scale plan of possible signalled junction, September 1984, reference LBL 104.