

MINISTRY OF HOUSING & LOCAL GOVERNMENT

Whitehall, London, S.W.1

Telephone : 01-839-8020

, ext. 41



Please address any reply to

THE SECRETARY

and quote: APP/4408/A/19458

Your reference: 7/1516/P

16 NOV 1967

Gentlemen,

Town and Country Planning Act 1962 - Section 23

Appeal by Mr. A. Kyriakydes

1. I am directed by the Minister of Housing and Local Government to refer to your client's appeal against the decision of the council of the London Borough of Camden to grant planning permission subject to two conditions for the continued use of the ground floor of No. 39, Marquis Road, London, N.W.1. for the repair of motor vehicles. The two conditions which are both in dispute provide that: (i) the limited period for the use shall be until 30th September 1969, on or before the expiration of which period the use shall be discontinued and determined and (ii) the hours during which the permitted use may operate shall be restricted to 8 a.m. to 6 p.m. on weekdays and 8 a.m. to 1 p.m. on Saturdays.

2. The representations submitted in support of the appeal have been considered with those of the council. An Inspector of the Department has visited the site.

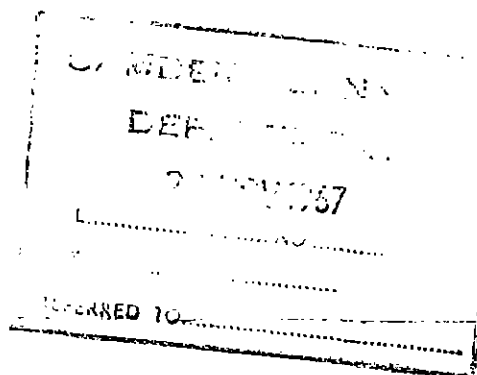
3. The appeal site is the windowless ground floor of No. 39 Marquis Road which is of 2 storeys for only the rear 28 feet of its depth. The site frontage is along the back of the street footpath and about 38 feet long. The site has a maximum depth of about 42 feet. The generally triangular shaped area has a concreted floor and brick walled frontage and sides. The ground floor apart from a small office and workshop is in open space. The roof of the single storey part of the building is low pitched of corrugated asbestos. The side garage doors to the appeal site form the only access to the building. Access to the first floor is by stairs from inside the ground floor office. The first floor is used as residential accommodation. Its floor area is about 350 square feet.

4. Marquis Road is a built up residential road and slopes down south from its junction with St. Augustine's Road which slopes more gently down south-west. The road has a 24 feet wide carriageway. The houses in Marquis Road appear to be structurally sound and reasonably well maintained. The rear gardens of four of the terraced 3-storey houses fronting on St. Augustine's Road extend to the north wall of the appeal site. No. 39 Marquis appears to be the only building not wholly residential in that road, in St. Pauls Crescent which leads off Marquis Road, and in St. Augustine's Road.

5. The council imposed the conditions in dispute because the proposal does not accord with the Initial Development Plan in which the area is zoned for residential purposes and the permanent use as proposed would tend to prevent the ultimate implementation of the plan. The second reason was to safeguard the amenities of occupiers of adjoining residential accommodation. Your client says the development

Gerald A. Waller and Company
Solicitors
90/91 Tottenham Court Road
LONDON, W.1.

/proposed



proposed is a continuation of a use which has been established on the site for many years and that the existing use does not materially detract from the amenities of the adjoining accommodation. Your client also points out that in the previous limited permissions given there was no limitation of hours during which the uses may be carried out. He thinks an unconditional permission should be granted or at least a permission conditioned on a long period of uses.

6. The appeal premises lie in a predominantly residential area and it is considered that the council are justified in strictly controlling the use of the appeal premises for motor vehicle repairs, by only giving permission for a limited period until 30th September 1969, and so preventing any long-term nuisance being caused to adjoining owners. Moreover a limitation on the hours during which the use should be carried out, as shown in condition two, is also thought to be justified to further safeguard local amenity.

7. The Minister therefore considers that both the conditions in dispute are reasonable. Accordingly he hereby dismisses your client's appeal.

8. Section 179 of the Town and Country Planning Act 1962 provides that if a person is aggrieved by any action on the part of the Minister of a description which includes the present decision, on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to that action, he may within six weeks from the date on which the action is taken apply to the High Court to quash the action. The relevant requirements are any requirements of the Act of 1962 or of the Tribunals and Inquiries Act 1958 or of any order, regulations or rules made under either of those Acts which are applicable to this action. If the application is made on the grounds that any of the relevant requirements have not been complied with, it must be shown to the satisfaction of the Court that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the action. A similar right of appeal is given by the Section to the local authority directly concerned with the action.

I am, Gentlemen,
Your obedient Servant,

(MRS. M. H. H. SEGAL)

Authorised by the Minister
to sign in that behalf