

BROXBORNE BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACTS, 1971 AND 1972

To: Mr J Pateman  
Chalet No.1  
Fairbrook  
Hertford Road  
Hoddesdon  
Herts

Reference No: 7/627-88

**Description of Development:** Two mobile homes

**Location of Development:** Chalet Nos. 1 and 2, Fairbrook, Hertford Road, Hoddesdon

In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council **HEREBY PERMIT** the development proposed by you in your application dated 2nd June 1988 and received with sufficient particulars on 6th June 1988 and shown on the plan(s) accompanying such application, **SUBJECT TO THE FOLLOWING CONDITIONS:-**

1. This permission shall enure for the benefit of the applicant Mr J Pateman and his dependents only and shall not enure for the benefit of the land.

Reason - In granting this permission the Local Planning Authority have had regard to the applicant's special circumstances and the Authority require to retain control over the future use of the premises.

2. That this permission shall be for a limited period expiring on 31st August 1993 and that the buildings and works shall be removed on or before that date and the land reinstated to its condition before the development took place.

Reasons -

1) To enable the Local Planning Authority to retain control over this structure which is constructed of short-lived materials which may deteriorate to the detriment of the visual amenities of the area.

2) Permission is only given to meet the special needs of the applicant.

3. No trees or hedges on the boundaries or within the site shall be felled or removed other than as results from natural causes. Any such trees or hedges shall be replaced within six months.

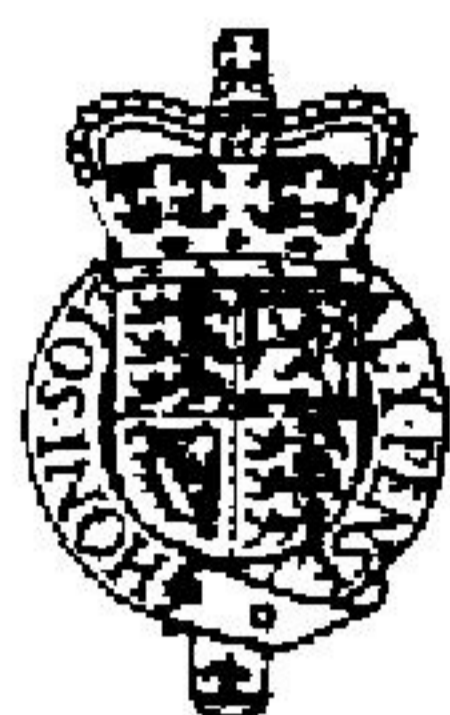
Reason - To safeguard the appearance of the site.

4. No storage of scrap metal, scrap vehicles or parts thereof nor any items other than of a domestic nature shall be stored within the site.

Reason - To safeguard the appearance of the site.

Dated: 19th day of July 1988. Signed: .....  
Director of Planning and Environment

SEE NOTES OVERLEAF



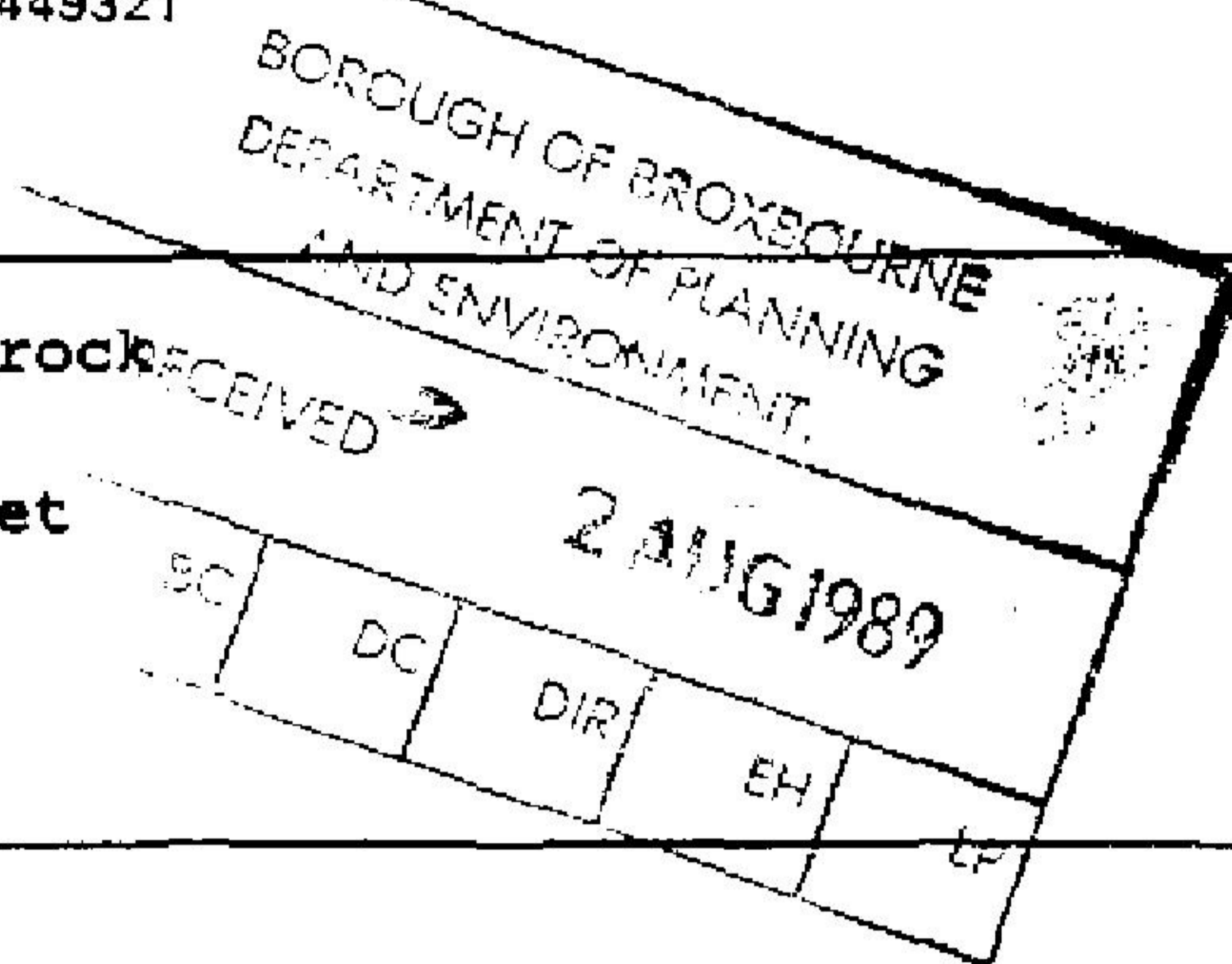
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Your reference

S/JH/B.28

Our reference

T/APP/W1905/A/88/110532/P4A

Date

31 JUL 89

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
APPEAL BY JAMES PATEMAN (ALSO KNOWN AS JAMES BROWN)  
APPLICATION NO: 7/627/88

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Broxbourne Borough Council to grant planning permission subject to conditions for retention of 2 existing mobile homes (chalets) for permanent occupation of applicant and members of his family. I have considered the written representations made by you and by the council. I have also considered those representations made by other interested persons to the Council which have been forwarded to me. I inspected the site on 31 May 1989.
2. The condition in dispute is No 2 which provides that this permission shall be for a limited period expiring on 31 August 1993 and that the buildings and works shall be removed on or before that date and the land reinstated to its condition before the development took place.
3. From what I have seen and read of this matter, I have come to the conclusion that the decision in this case turns upon whether the special circumstances which led to planning permission first being granted on a temporary basis, now justify the granting of a permanent planning permission.
4. On 31 August 1983, Planning Permission was granted on appeal for the siting of 2 mobile homes upon the appeal site. (T/APP/5251/C/83/604-607/PE2). In considering that appeal, my colleague concluded that the personal circumstances of your client and his family, and particularly their status as gypsies, resulted in them not having the same choice of suitable accommodation as most people. Further, there was a need for his children to receive a sound education. Together, these factors justified the setting aside of the strong presumption against development within the Green Belt and an Agricultural Priority Area. In view of the policy issues, he considered that the Council should have the maximum control possible. That control was to be exercised through a site licence. Further, the life of the planning permission was to be restricted so that the Council could review the situation after experience had been gained of the appellant's upkeep of the site.
5. On 19 July 1988, the Council renewed the planning permission, and attached to it the disputed condition. The Council's first reason for attaching the condition was that it wished to retain control over the structures which are constructed out of short lived materials, and which could deteriorate to the detriment of the visual amenities of the surrounding area. This is their normal

practice when granting planning permission for mobile homes. The Council are further concerned that without this control, there could be a proliferation of unauthorised vehicles and activities, and a general deterioration of the visual amenities of the surroundings. In imposing this condition, the Council points out that it has taken account of the 3 factors controlling temporary planning permissions set out in paragraph 83 of Circular 1/85.

6. You point out that the lack of security brought about by the disputed condition is causing your client distress. Further, as the youngest member of his family suffers from Down's Syndrome, and the educational needs of the other children have not changed, there is a continuing need for his family to follow a settled life. You maintain that this may never be assured with a series of temporary planning permissions, as one day planning permission may not be renewed. You suggest that the Council's concern that the form of construction of these mobile homes would lead to problems with respect to their maintenance may be overcome by attaching a condition to the planning permission requiring that they be kept in a satisfactory condition.

7. I accept that the mobile homes on this site comply with the factors set out in paragraph 83 of Circular 1/85 insofar as they do not conform to the Development Plan, and that their removal would not involve the demolition of permanent buildings. However, paragraph 83 of this Circular also stresses that a temporary planning permission should not be imposed because of the effect of the development upon an area's amenities. It advises that where such objections arise, they should be met by conditions that will safeguard amenity, or if this is not possible, planning permission should be refused. Hence a temporary permission is only appropriate where the applicant proposes either a temporary development or a trial run in order to assess its impact upon the area. Paragraph 85 of the Circular further notes that temporary planning permission should not be imposed because of the materials of construction.

8. In the light of this advice, I have concluded that it is inappropriate to impose the disputed condition because of concern about the impact of the proposed development upon the visual amenities of the area. To my mind, paragraph 12 of my colleague's decision letter indicates that the condition was intended to facilitate a trial run. My examination of the site revealed both the mobile homes and the site to be in an exemplary condition. In the light of the evidence of the Council, I accept that the Site's current condition reflects its condition over the last 5 years. I am therefore satisfied that the proposed development does not have any adverse impact upon the visual amenities of the locality.

9. In order to overcome the Council's concern that the condition of the site will deteriorate once permanent planning permission has been granted, you propose a maintenance condition. Paragraph 62 of Circular 1/85 permits a maintenance condition to be imposed only where it is; relevant to the development being permitted, reasonable in its effects and sufficiently precise to be readily enforceable. I consider the condition you propose to be relevant to the development, for without it, there might possibly be a diminution of the visual amenities of the area. It is reasonable in its effects, as it requires no more than the continuation of the existing status quo. However, I concur with the Council that the term 'Satisfactory' is not sufficiently precise to readily be enforceable.

10. I have therefore weighed alternative forms of wording. To my mind, an assessment as to whether the condition of the site is acceptable is a matter of personal judgement. Hence one person may regard the site as being in a satisfactory condition at the same time as another person considers it to be in an unsatisfactory condition. I have therefore concluded that it is not practicable to word a maintenance condition

for your client's site which is sufficiently precise. As your client has maintained the site in a satisfactory condition throughout the trial period, I consider that he has demonstrated that his occupation of the site will not detract from the visual amenities of the locality. I have therefore concluded that it would not be appropriate for me to impose the condition you propose.

11. The Council note that the planning permission was granted to meet the special needs of the applicant. It is clear to me that those needs are long term, and I note that this was acknowledged by my colleague in paragraphs 10 and 11 of his decision letter. I have therefore concluded that it is not reasonable to cause your client continuing uncertainty by maintaining the need for him to apply for planning permission once every 5 years, with the accompanying risk of very severe repercussions upon his family if it were not renewed. I have considered all other matters raised, and I find that none of these is of such import as to override the conclusions on the major issues that have led to my decision.

12. For the above reasons, and in exercise of the powers transferred to me I hereby allow your appeal and vary the planning permission No 7/627-88 for 2 mobile homes, Chalet Nos 1 and 2, Fairbrook, Hertford Road, Hoddesdon, granted on 19 July 1988 by the Broxbourne District Council by deleting condition No 2.

I am Sir  
Your obedient Servant



GEOFFREY S S LANE DiplArch DiplTP RIBA MRTPI  
Inspector