

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other Ref. No.

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To Messrs. Allwright & Stiles,
11 Marlowes,
HEMEL HEMPSTEAD,
Herts.

Change of use from residential to office
at 11A Marlowes, Hemel Hempstead, Herts.

Brief description and location of proposed development.

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 refuse the development proposed by you in your application dated 24th January, 1978, and received with sufficient particulars on 24th January, 1978, and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:-

- 1. The proposed development would result in the loss of a satisfactory residential unit.
2. The proposed use is not in accordance with the provisions of the Development Plan which allocates the area to be used primarily for residential purposes with shopping frontage only; the introduction of further commercial uses in the upper floors of these properties would be detrimental to the amenity of the occupiers of neighbouring residential properties.

Dated 16th day of February, 1978.

Signed [Signature]
Designation Director of Technical Services.

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Whitehall, London, S.W.1.) The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any directions given under the order.
- (3) If permission to develop land is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the District Council in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.
- (4) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 169 of the Town and Country Planning Act 1971.

B/69/11.10



Department of the Environment

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in Dobby DTS. Note return for next office & Repair

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Messrs Allwright and Stiles
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HEMEL HEMPSTEAD
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HP1 1LA

TECHNICAL SERVICES DEPT.	
PLANNING SECTION	
3 10 OCT 1978	
FILE No.	DATE

Your reference 4/0063/78
Our reference T/APP/5252/A/78/03086/G9
Date 30 OCT 78

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO 4/0063/78

1. I refer to your appeal which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for the change of use of 11A Marlowes, Hemel Hempstead from residential to offices. I held a local inquiry into the appeal on 4 October 1978 when I also inspected the site and surroundings.

2. It seems to me that what has to be decided here is whether, taking account of the planning authority's policies, the public interest in retaining this 2 roomed flat in residential use is sufficiently strong to warrant refusal of the owners' wish to make use of it for office purposes (estate agents) in conjunction with the ground floor accommodation.

3. You argued that the case for the change of use was at least as strong as it was in respect of No 33 Marlowes, where a similar appeal was upheld by Department of the Environment letter of 31 October 1977. In both cases there was a dark and steep stairway and a small garden area of difficult access, but in this case a 2 rather than a 4 roomed unit was involved; the previous tenant, an elderly lady, had been rehoused by the council in more suitable accommodation. Although the planning authorities were in general putting the brake on new office development, the change of use qualified for special consideration under the provisions of "Hertfordshire 1981" as a local professional office and under the Hemel Hempstead Town Plan 1975 as one serving local needs: your firm had occupied the lower floor since 1961 but the accommodation there was now grossly inadequate to cope with the expansion of the business; in particular there was only one WC and for a long time the female staff had had to make use of the toilet in the flat upstairs; no suitable alternative accommodation for the business was available; space in a large office block was unsuited to the nature of the business.

4. The council regretted that the appeal for change of use of 33 Marlowes had been upheld. The County Structure Plan was seeking to restrict development in the county including, not least, office development: policy No 6 stated that exceptions must be assessed in relation to 4 criteria one of which was that "as a general rule, either the conversion or the change of use of residential premises to office use will not be permitted while the property is capable of continued residential use". In the Dacorum District as elsewhere there was a housing shortage and the shortage of small units for one or two people had been noted: 11A was built for residential purposes and remained suitable therefor.

CONFIDENTIAL
31 OCT 1978
Refer to.....
prepared.....

5. The policy documents referred to appear to me to be of limited assistance. "Hertfordshire 1981", which, pending approval of the Structure Plan, is the basis of county development control, allocates the area to "business, civic, cultural or other special uses for the town as a whole", while the Town Centre Plan 1975, while restricting new office development, seems to admit some new development if it serves local needs. Hemel Hempstead is short of residential accommodation in common with the rest of the country but no special or exceptional local housing problems were demonstrated at the inquiry. Therefore it seems that this appeal has to be considered primarily on its own merits, which, as I see them, are summarised below.

6. The character of this end of Marlowes is dominated by the shops extending on either side of the appeal building. As a residential unit the flat has some defects, especially the dark and rather steep staircase and the awkward access to the small garden plot at the back. Nevertheless, when living accommodation is hard to come by and often expensive, no doubt tenants could readily be found. However, taking account of all the points advanced by the council and bearing in mind that yours is a local business serving local needs, that the upper floor would be used in association with the ground floor and that your need for more room is clearly established, I have concluded that in this particular case the public interest in preserving 11A for residential purposes has not been shown to be of sufficient strength to warrant refusal of the application for change of use: it should be emphasised that no general principle or precedent is hereby established either with reference to Marlowes or any other part of the town.

7. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the conversion of 11A Marlowes, Hemel Hempstead from residential to offices in accordance with the terms of the application (No 4/0063/78) dated 24 January 1978 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun not later than 5 years from the date of this letter.

2. The premises shall be used as estate agency offices and for no other purpose (including any other in Class II of the Schedule to the Town and Country Planning (Use Classes) Order 1972).

8. 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 M KISCH, CMG MA