

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To Halifax Building Society
P.O. Box 60
1 Trinity Road,
Halifax, W.Yorks HX1 2RG

Stanley Peach and Partners
28 Eccleston Square,
London SW1 1PA

..... Change of use of ground floor from retail shop.....
..... to office.....
..... at .. 198, High Street, Berkhamsted.....
.....

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 7th February 1983 and received with sufficient particulars on 9th February 1983 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 change of use would result in the loss of a retail unit in a primary shopping frontage of the principal shopping area of Berkhamsted, and would be contrary to the provisions of District Plan Policy 90.

Dated 17th day of March 19 83

Signed..... *W. B. Marshall*
Chief Planning Officer

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, Tollgate House, Houlton Street, Bristol, BS2 9DJ). 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.

Department of the Environment and
Department of Transport



Common Services

Room 1422 Tollgate House Houlton Street Bristol BS2 9 DJ

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18 NOV 1983

~~AMS~~
~~C. J. J. B.~~
TEAM 2
~~J. J. W.~~

The Solicitor
Halifax Building Society
PO Box 60
Trinity Road
HALIFAX
HX1 2RG

CHIEF EXECUTIVE
OFFICER
18 NOV 1983

Comm. to
Your reference
MR A C JOWETT
Our reference
T/APP/A1910/A/83/2681/PH2
Date

16 NOV 1983

Sir

7500

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY HALIFAX BUILDING SOCIETY
APPLICATION NO: 4/0166/83

1. I have been appointed by the Secretary of State to determine the above mentioned appeal. This appeal is against the decision of the Dacorum District Council to refuse planning permission for the change in the use of the ground floor of No 198 High Street, Berkhamsted from a shop to a Building Society Office. I held a local inquiry into the appeal and inspected the site and its surroundings on 1 November 1983.

2. Although the Dacorum District Plan remains to be adopted, I was told that it has now passed through several of its pre-adoption stages. In the circumstances, I find it reasonable to consider the Society's proposal alongside the Plan's provisions. The Plan designates: the frontage in which the appeal site is located as 'Primary Shopping Frontage' and; this frontage as within a 'Principal Shopping Area'. As the Plan remains to be adopted, I have considered the propriety of these designations. However, I find no good reason to question that propriety for the time being pending the final decision upon the District Plan as a whole.

3. The Plan's Policy 90 provides (Document 4):

PLANNING APPLICATIONS FOR CHANGE OF USE FROM SHOP TO NON-SHOP USES IN PRIMARY SHOPPING FRONTAGES WILL NORMALLY BE REFUSED...."

To assist in its implementation of Policy 90, the council published guidelines in February 1983 (Document 7(i)). These guidelines provide:

Primary Shopping Frontages

"....THE ONLY EXCEPTION TO THE POLICY OF REFUSING SHOP TO NON-SHOP CHANGES WOULD BE WHEN THE PROPOSED USE WOULD BE PARTICULARLY ATTRACTIVE TO SHOPPERS AND HAVE IMPORTANT BENEFITS FOR NEARBY SHOPS AND THE SHOPPING CENTRE AS A WHOLE. Such exceptional uses can be expected to be within the definition of non-shop uses set out in table 2 below".

Table 2 includes "Building Society Offices"

Principal Shopping Areas

"....IN GROUND FLOOR PREMISES WITHIN PRINCIPAL SHOPPING AREAS CHANGES OF USE FROM SHOP TO NON-SHOP USE WILL NORMALLY ONLY BE GRANTED PLANNING PERMISSION PROVIDED:

1. THE SITE IS NOT LOCATED IN A PRIMARY SHOPPING FRONTAGE.
2. THE PROPOSED USE IS CONSIDERED APPROPRIATE TO A SHOPPING AREA (IE LIMITED TO THOSE USES SET OUT IN TABLE 2 BELOW). CHANGES OF USE FROM GROUND FLOOR SHOPS TO OFFICES (AS DEFINED BY THE USE CLASSES ORDER) WILL, WITH THE EXCEPTION OF BANKS, BUILDING SOCIETIES AND ESTATE AGENTS, NORMALLY BE REFUSED.
3. THE PROPOSAL WOULD NOT CAUSE A PREDOMINANCE OF NON-SHOP USES IN THE PARTICULAR FRONTAGE.
4. THE PROPOSAL WOULD NOT CREATE A BREAK IN THE RETAIL FRONTAGE GREATER THAN 2 UNITS OR 15 METRES, WHICHEVER IS THE LESSER (THE WORD "RETAIL" EXCLUDES NON-RETAIL SHOPS - SET OUT IN TABLE 1 BELOW).
5. A SHOP WINDOW DISPLAY IS MAINTAINED.

ALSO:

6. NOTWITHSTANDING THE TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER 1977 ANY PLANNING PERMISSION WOULD NORMALLY BE RESTRICTED BY CONDITION SO AS TO LIMIT THE USE TO THAT APPLIED FOR."

4. In my judgement, the Society's proposal is outside those acceptable in the normal application of the above extracts from: (i) Policy 90, and (ii) The Guidelines, Section 3-1. Therefore, I conclude that the main issue in this appeal is whether or not there is any sufficient reasons to permit the Society's proposal as an exception to that normal application.

5. The evidence was that during their opening hours, your Society's Branch Offices attract a large number of customer visits; this number being usually much greater than that at retail premises of similar floor area. I heard no good reason to deduce that the proposed Berkhamsted Branch Office would be differently patronised. I have no doubt that many of those customers would be shoppers already in the area, and therefore it seems to me that the opening of this Branch Office would confer a significant benefit to those shoppers. Also, I have no doubt that other customers would not be shoppers already in the area. In my opinion, these latter customers would add to the vitality of this shopping area, and would represent a source of additional customers both to nearby shops and to the shopping parade as a whole. Thus I find it reasonable to conclude that the Society's proposal is acceptable in the terms of the Guideline's 'Primary Shopping Frontages' provisions (see paragraph 3 above).

6. As the appeal site (effective width stated to be 12 ft 3 ins) would be the only office in that part of the designated 'Primary Shopping Frontage' between Lower King's Road and Water Lane, it seems to me that the Society's proposal would not create an unduly long break in the otherwise wholly retail frontage. Nor in my view would it result in an undue fragmentation of the retail frontage.

7. As the appeal site is not in an unduly visually prominent part of the designated 'Primary Shopping Frontage', I find no specific and convincing planning objection to the Society's proposal on 'visual prominence' grounds.

8. I heard that it is the Society's practice to provide an attractive, and often changed window display. I have no doubt of the importance of such a display in a shopping frontage. However, I accept that the Society's practice could be reinforced by a suitable condition of planning permission.

9. I have taken account of all the other representations including those made by letter. In my judgement, the balance of argument constitutes a sufficient reason for permitting the Society's proposal as an exception to the normal application of: (i) Policy 90; and (ii) The Guidelines' Section 3-1.

10. As I have determined this appeal on the basis of the Building Society Office envisaged by your Society, and not on the basis of a General Office at the appeal site, I attach Condition 3 below which restricts the approved user to that applied for.

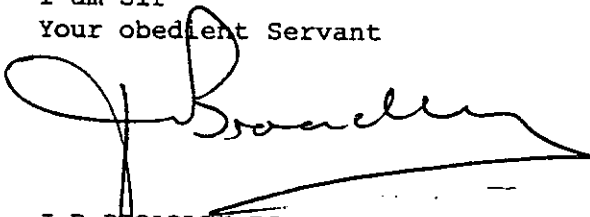
11. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use of the ground floor of No 198 High Street, Berkhamsted from shop to a Building Society Office in accordance with the terms of the application (No 4/0166/83) dated 7 February 1983 and the plan 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 frontage shall contain a window display and lighting of a shop character;
3. the premises shall be used as Building Society Offices and for no other purpose, including any other purposes in Class II of the Schedule to the Town and Country Planning (Use Classes) Order 1972.

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

13. 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 Sir
Your obedient Servant



J D BROADLEY BSc MEng CEng MIMunE MIMStructE
Inspector

ENC

APPEARANCES

FOR THE APPELLANT

Mr M Harrison QC

- instructed by Mr A C Jowett,
Solicitor to Halifax Building
Society, PO Box 60, Halifax
HX1 2RG.

He called:

1. Mr A Brooke ARICS

- Chief Surveyor to Halifax
Building Society.

2. Mr J D B Bayliss MA FRICS

- Gerald Eve and Co, Chartered
Surveyors, 18 Savile Row,
London, W1X 2BP.

FOR THE PLANNING AUTHORITY

Mr J Vaughan

- An Assistant Solicitor with
Dacorum District Council.

He called:

Mr D Noble BA MRTPI MIAS MRSH

- A Principal Assistant Planner
with Dacorum District Council.

INTERESTED PERSON:

Mrs J Walker

- Local resident, 12 Clarence
Road, Berkhamsted.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

" 2 - Copy letter dated 20 September 1983 whereby the Council notified the
Inquiry Arrangements.

" 3 - Letters in reply to Document 2.

" 4 - Extract, Dacorum District Plan.

" 5 - Planning History - 198 High Street, Berkhamsted.

" 6 - Copy letter dated 4 July 1979 from Marks and Spencer Ltd to Halifax
Building Society.

" 7 - Folder containing:

i. 'Non-Shop Uses in Shopping Frontages' - Dacorum District Council,
February 1983.