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Handwritten initials: JDN, JES

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|---|-----------|----------------------------|
| Chief Planning Officer PLANNING DEPARTMENT | | Your reference |
| Dacorum Borough Council DACORUM BOROUGH COUNCIL | | 4/0184/89 4/0202/89 LB |
| Civic Centre | 4/0184/89 | Our reference |
| HEMEL HEMPSTEAD | DM/T3/11 | File APP/A1910/E/89/804660 |
| Herts | | APP/A1910/A/89/131117 |
| HP1 1HH | | Date |
| Received 24 NOV 1989 | | 23 November 1989 |
| Comments | | |

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1971
 TOWN AND COUNTRY PLANNING (LISTED BUILDINGS AND BUILDINGS IN CONSERVATION AREAS) REGULATIONS 1987
 TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 1989
 APPEALS BY CONNELL ESTATE AGENTS
 RE: 45 THE MARLOWES, HEMEL HEMPSTEAD

1. I refer to the above Section 36 and Listed Building consent appeals.
2. It is noted that the appellants claim that the proposed signwritten canopies, the subject of these appeals, should be treated as advertisements which would enjoy deemed consent under the Control of Advertisements Regulations. You claim in your statement that this is not so in this case since the canopies are not designed primarily for advertisement purposes and you refer to the case of Glasgow District Council v Secretary of State for Scotland (JPL May 1988 pp 320-322) which you consider supports your view.
3. Although it is noted that the appellants, in their grounds of appeal, suggest that the canopies will have other uses as well as that of advertising (eg shade from sunlight), it is noted from their agent's letter of 11 September 1989, that they maintain that the more important aspect of the blinds is an advertisement. This would appear to be reinforced by their position on the Building, masking the advertisements already displayed at the usual fascia level. In this respect, the canopies would appear to fall within the definition of advertisement in section 290 of the 1971 Act in that they would be 'employed wholly or partly for the purpose of, advertisement, announcement or direction'. This view is reinforced by the decisions in the recent cases of Westminster City Council v Secretary of State for the Environment and Bally Group and Westminster City Council v Secretary of State for the Environment and Musto R (Times Law Report 21 July 1989). The view is therefore taken that these canopies are properly to be regarded as advertisements within the definition in section 290 of the 1971 Act and therefore subject to the provisions of the Control of Advertisements Regulations 1989.



4. It has been further considered whether, as advertisements, these canopies would require express consent. From the submitted plans and on the indicated basis that the wording is to refer to the business name, it would appear that they would comply with the provisions of Class 5 of Schedule 3 to the 1989 Regulations, such that they would have deemed consent under Regulation 6. This being the case, they would also benefit from deemed planning permission for any works of development involved in their erection by virtue of section 64 of the 1971 Act. In these circumstances, a separate grant of planning permission for their erection is unnecessary and the Secretary of State has therefore decided to take no further action on the appeal under section 36 of the 1971 Act.

5. The appellants' appeal against the refusal of Listed Building consent will therefore proceed on its own and the appointed Inspector will shortly visit the site.

6. A copy of this letter has been sent to Mr S W Pacey, agent for the appellants.

Yours faithfully

A handwritten signature in black ink, appearing to be 'A J Gadsby', written in a cursive style.

A J GADSBY

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972
LA



DACORUM BOROUGH COUNCIL

To
Connell
19 High Street
Hitchin
Herts

.... Erection of canopy blinds
.....
at .. 45 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 27. 1.89 and received with sufficient particulars on 30. 1.89 and shown on the plan(s) accompanying such application.

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

The proposed works would, by reason of their design and appearance, detract from the Grade II Listed Building and prove injurious to the visual amenity of the area.

Dated 3rd day of April 1989

Signed..... *Wm Bamford*

Chief Planning Officer

NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.