

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF **DACORUM**

IN THE COUNTY OF HERTFORD

To Mr. K. Plaw,
109 High Street,
HEMEL HEMPSTEAD,
Herts.

Mr. B. Francis,
Messrs. Poulter & Francis,
57 Marlowes,
HEMEL HEMPSTEAD,
Herts.

Change of use of first and second floors and part of
ground floor from residential, workshop and store to
office
at 109 High Street, Hemel Hempstead.

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 9th March, 1978, and received with sufficient particulars on 13th March, 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. Policy 6 of the submitted County Structure Plan Written Statement states that office development will be restricted to existing commitments for office development at 1st January, 1976, and the application premises are not so committed. Notwithstanding this, the policy of the local planning authority seeks to restrict office development principally to offices serving the local community in Hertfordshire or to offices essential as ancillary services to industry established in the County and, in the absence of details of the occupier of the proposed offices, the application is unacceptable in the terms of this policy. Moreover, the development proposed will result in the loss of residential accommodation which is considered capable of continued residential use and is thus in conflict with a further provision of the office policy in both the submitted County Structure Plan Written Statement and Hertfordshire 1981 Planning Objectives and Policies.
2. The proposal would result in the introduction of an office use into the ground floor High Street frontage to the detriment of the general character of the area which is designated as a Conservation Area under Section 277 of the Town and Country Planning Act 1971.

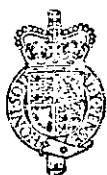
Dated 20th day of April, 1978.

Signed 

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.



Department of the Environment

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Chartered Surveyors, Estate Agents,
Auctioneers, Valuers
57 Marlowes
HEMEL HEMPSTEAD
Herts HP1 1LE

Your reference

BF/JES/5067

Our reference

T/APP/5252/A/78/04356/G6

Date

- 4 OCT 1978

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR K PLAW
APPLICATION NO:- 4/0286/78

1. I refer to this 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 first and second floors and part of ground floor from residential, workshop and store to offices, at 109 High Street, Hemel Hempstead. I have considered the written representations made by you and by the council, and also those made by interested persons. I inspected the site on Tuesday 12 September 1978.
2. From my inspection of the appeal premises and the surrounding area and bearing in mind the representations made, I consider that the main issue is whether in the light of the planning policies concerning office development, there are special circumstances to justify the proposed development.
3. It seems to me that there are 3 factors involved in the policies of the planning authorities which should be considered in connection with the present case. First, policy 6 of the County Structure Plan Written Statement states that office development will be restricted to existing commitments for office development at 1 January 1976; and secondly and additionally there is a restriction of office development to that serving the local community or as an ancillary service to industry established in the county; and thirdly there is the question of loss of residential accommodation.
4. The appeal premises are not included in the existing commitment for office development. However you point out on behalf of your client that there is a local firm of solicitors who wish to take a lease of all of the office accommodation now proposed to be provided in the appeal premises; this firm is in need of the accommodation which would be of particular benefit to them in that their staff would then be all under one roof. There is residential accommodation at No 109 High Street which is proposed to be used for offices, but you contend that the new house proposed to be built at the rear of the appeal site would be a replacement of the present residential accommodation.
5. Additional matters, which you consider have an important bearing, are that since your client purchased the appeal premises in 1973 he has spent a lot of time and money in getting the premises up to their present state and that further major repairs are now necessary: in your view comparison with a nearby property No 107 High Street where office accommodation has been allowed is also relevant.


6. I appreciate that it could be argued that the approval of a new house meant additional residential accommodation at No 109 High Street, and therefore it might not be unreasonable to equate the provision of a new housing unit with the giving up of an existing unit, and as a consequence the third policy factor should not be held to be of substantial objection to your client's proposal. Also the fact that there is a named, local firm ready to occupy offices at the appeal premises could be said to stand up to critical examination in meeting the second of the policy requirements. But this leaves the first and foremost policy factor outstanding and this is a clear statement of policy regarding office development. Although in this instance the other policy reasons might be contested it remains a fact that the appeal premises are not included in the existing commitment for office development, and I see no cogent reason for departing from a policy which has been endorsed to the extent that it has been submitted to the Secretary of State as formal policy of the planning authorities. The condition of No 109 High Street and that of No 107 illustrate the background to development proposals, and in respect of the appeal premises are now mainly economic factors which can and do influence planning proposals but are not in themselves justification for setting aside planning policies.

7. I have also considered the other matters raised in the representations, including the question of the introduction of an office use into the ground floor of the High Street frontage of the appeal premises and which your client is prepared to forego, but the considerations which have led to my decision are not outweighed by these other matters.

8. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Sir

Your obedient Servant



C C EYRES FRTPI
Inspector

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case may be, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.