



Direct Line 0117-987 8927  
Switchboard 0117-987 8000  
Fax No 0117-987 8139  
GTN 1374-8927  
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

Your Ref: N.97  
 Our Ref: 2016.HM  
 T/APP/A1910/A/97-285450/P7

PLANING DEPARTMENT  
 DACORUM BOROUGH COUNCIL

Ref.					Ack.
DoP	D.P	CC	CC	Admin.	
26 JAN 1998					

Date: \_\_\_\_\_

Received 27 JAN 1998

Comments \_\_\_\_\_

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY MR B KHAN  
APPLICATION NO: 4/00457/97/FUL

2. From my inspection of the site and its surroundings, and from the written representations made, I consider the main issues in this appeal to be, first, the effects of the proposed change of use on the living conditions of nearby residents, with particular reference to noise and disturbance, and smell; and, second, the adequacy of parking provision in terms of the free flow of traffic and highway safety.

3. The development plan includes the Hertfordshire County Structure Plan Review, incorporating Approved Alterations 1991, approved in 1992, and the Dacorum Borough Local Plan, adopted in 1995. Policy 47 of the Structure Plan seeks to protect and enhance the existing settlements and the essential character of the county's urban and rural areas. Policy 48 provides, amongst other things, that redevelopment schemes should have regard to adjacent land uses, and Policy 49 indicates that development will generally be concentrated in the towns listed therein, which include Berkhamsted.

4. Policy 1 of the Local Plan confirms Berkhamsted as one of the towns to which development will be directed, whilst Policy 7 divides those, and other settlements, into residential areas;



General Employment Areas; town centres and local centres; and open land areas. The appeal site falls within a residential area in the Plan where, amongst other things, compatible non-residential development for small scale social, community and leisure purposes is acceptable but the introduction or intensification of incompatible non-residential development will be resisted. Policy 8 seeks a high standard in all development proposals, indicating that development will not be permitted unless, amongst other criteria, it avoids harm to the surrounding neighbourhood and adjoining properties through, amongst other examples, noise, disturbance or pollution, and it provides sufficient parking and space for servicing.

5. My attention has also been drawn to Reviews which have been commenced in relation to both the Structure and the Local Plan but not to any Policies in either document of relevance to the appeal proposal.

6. I have also been referred to various Planning Policy Guidance Notes and Circulars, including the following: Planning Policy Guidance: General Policy and Principles (PPG1); Planning Policy Guidance: Industrial and Commercial Development and Small Firms (PPG4); Planning Policy Guidance: Town Centres and Retail Developments (PPG6); Planning Policy Guidance: Transport (PPG13); Circular 13/87, "Changes of use of buildings and other land: The Town and Country Planning (Use Classes) Order 1987" and Circular 11/95, "The Use of Conditions in Planning Permissions".

7. The appeal site is a terraced property with a rear garden, fronting the A4251, the main Berkhamsted to Tring road, and lies within a predominantly residential area. The terrace consists of four similar properties, the others currently being used as an antiques shop, a cafe, and a newsagent/off-licence, each with residential accommodation above. The appeal premises are currently vacant, but I am told that they were previously used as a retail unit on the ground floor with a flat above. There is parking available directly outside these units for five or six cars, but this is time-limited during the day. There is also a single track unmade vehicular access that runs between Gossoms Cottage and 57 Gossoms End, and between Nos 60 and 61. This provides access to the rear of the site.

8. Looking at the first main issue, and examining first the question of noise and disturbance, I accept that measures could be taken to prevent noise nuisance from internal activities or from any extraction system. In addition, your client has indicated a willingness to open only in the evenings and to accept a closing time of 2200 hours. However, there are flats directly above the shops, and houses and other residential accommodation nearby. Whilst the road is clearly busy during the day, the recent de-trunking will no doubt have reduced traffic flows and therefore have made this a more pleasant area within which to live. Your client's business would stay open late into the evening and, although some customers would come by foot, I have no doubt that a large proportion of your client's customers would come by car, bearing in mind the site's location on the

main road. In a predominantly residential area, and in such close proximity to people's homes, I consider that this would be a source of noise and disturbance to nearby residents. This would be harmful to the surrounding neighbourhood and incompatible with the residential area, contrary to the objectives of Policy 48 of the Structure Plan and to Policies 7 and 8 of the Local Plan.

9. With regard to the question of smell, I note the particular difficulties identified by the Council in relation to the provision of an effective extraction system at this site. However, the advice of the Council's Chief Environmental Health Officer, set out in memoranda of 6 June 1997 and 23 July 1997, does not, as the Council's letter of 18 November 1997 suggests, lead inevitably to the conclusion that "the premises cannot be adequately ventilated". Modern ventilation equipment, properly installed and maintained, can be effective in reducing the problems caused by cooking smells, and whilst I note the reference by some interested persons to the "tantalising" smells from the nearby cafe I am unconvinced that a satisfactory method of extraction could not be found.

10. I turn, therefore, to the second main issue and the adequacy of parking provision in terms of the free flow of traffic and highway safety. The plans indicate parking for four cars at the rear of the site: however, whilst these spaces might be readily utilised by members of staff they would not, in my view, be attractive to or suitable for use by customers. The accessways to the sides of Nos 57 and 60 are both single track and their use by your client's customers would, I consider, increase the risk of vehicle to vehicle conflict and vehicular/pedestrian conflict. It seems to me, therefore, that customers would in any event park on the highway, and I note that your supplementary statement indicates that the rear spaces would in fact be for staff purposes only.

11. There is only very limited on-street parking available during the day. Whilst this increases in the evening the width of the road is such that on-street parking is likely to give rise to some congestion and inconvenience to road users. Although you refer to a site visit survey undertaken by you to ascertain available day-time and evening parking the conclusions drawn appear at variance with the experiences of those who live there. Some local residents comment that they currently experience difficulties either with parking near their houses or with finding themselves blocked by vehicles illegally parked. Additionally, the owner of the Yeovil Cafe tells me that his establishment stopped their takeaway service not only because of the litter but also because the parking became a big problem for them and for the local residents. It seems to me that this is clear evidence of pressure for the limited parking space available.

12. The nature of a hot food takeaway is to attract short-stay parking where, in my experience, customers are often eager to park as close to the establishment as possible. Whilst I accept

that some shops, which could operate unfettered in this location, might give rise to similar traffic patterns it is, in my view, almost inevitable with an establishment of this kind that there will be significant trade late into the evening. Bearing in mind the characteristics of this road, including the levels of traffic carried, its width, and the number of access points in the immediate vicinity, I concur with the Council that a use of this nature, attracting additional demand for on-street parking, would be detrimental to the free flow of traffic and to highway safety. Whilst I have noted what you say regarding the transfer of parking demand from the daytime to the evening there is already a newsagents/off-licence which is likely to extend the demand for parking outside peak hours. Additionally, demand for parking from residents, or for ready access by them to off-street parking spaces, is likely to be higher in the evening than during weekdays. Thus, although such a transfer might be of some advantage during the day it would, in my view, be outweighed by the disadvantages of increasing the demand for parking in the evening.

13. In the light of the above I conclude that the proposal would adversely affect the living conditions of nearby residents by virtue of noise and disturbance, and would fail to provide adequate car-parking, to the detriment of the free flow of traffic and highway safety. The scheme would therefore be contrary to the objectives of Policy 48 of the Structure Plan and to Policies 7 and 8 of the Local Plan.

14. I have taken into account all of the other matters raised with me, including the matters of drainage and of litter. I have also had regard to the appeal decisions to which I have been referred by each of the main parties. I was able to see the site at Northchurch (DoE reference T/APP/A1910/A/95/251033/P8) following my site visit. However, I found this site to be very different from the appeal site, being a single storey property within a small shopping parade, with a car-park in front. Whilst I have also considered the other decisions before me it seems to me that each application must in any event be determined on its own merits. In this case there are no factors which outweigh those to which I have referred and which have led me to my decision. The appeal must therefore fail.

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

Yours faithfully



Felix Bourne BA(Hons) Solicitor Legal Associate RTP1  
Inspector



# PLANNING

**Agent:**

MR R H KAZALBASH  
15 ALDER CRESCENT  
LUTON  
BEDS  
LU3 1TG

**Applicant:**

MR B KHAN  
8 CAVENDISH ROAD  
LUTON  
BEDS

TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION - 4/00457/97/FUL**

**CHANGE OF USE FROM CLASS A1 (SHOP) TO CLASS A3 (HOT FOOD TAKEAWAY)**

**59 GOSSOMS END, BERKHAMSTED, HERTS, HP4 1DF**

Your application for full planning permission dated 21 March 1997 and received on 10 April 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning  
Dacorum Borough Council  
Civic Centre  
Marlowes  
Hemel Hempstead  
Herts  
HP1 1HH

Date of Decision: 1 August 1997

**REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/00457/97/FUL**

Date of Decision: 1 August 1997

- 1. There is inadequate provision for vehicular parking within the site to meet the standards adopted by the local planning authority which could lead to conditions prejudicial to general highway safety.**
- 2. The proposal would have a seriously detrimental effect on the amenities at present enjoyed by occupants of adjacent dwellings, by virtue of noise, smell and general disturbance.**