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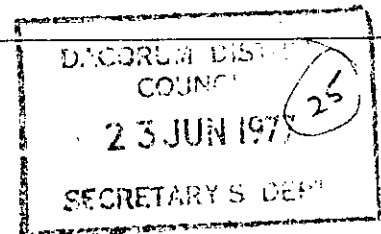
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Gentlemen

465/75D-  
TOWN AND COUNTRY PLANNING ACT 1971 - SECTIONS 36 AND 88  
LAND AT 2A COTTERELLS, HEMEL HEMPSTEAD  
APPEALS BY MRS G H WOLFF AND MR R E DENMEAD



1. I am directed by the Secretary of State for the Environment to refer to the report of the Inspector, Mr M S Hancock CB MBE CEng FIEE, who held a local inquiry into:

a. the appeal by Mrs Wolff against an enforcement notice served by the Dacorum District Council, relating to the use of 2A Cotterells, Hemel Hempstead for the purpose of a solicitor's office;

b. the appeal by Mr R E Denmead against the decision of the Dacorum District Council, to refuse permission for the use of the said land for the professional offices of a solicitor.

2. The appeal against the enforcement notice was on the grounds set out in section 88(1)(a), (b), (f) and (g) of the Town and Country Planning Act 1971, but at the inquiry grounds 88(1)(f) and (g) were withdrawn.

3. A copy of the Inspector's report of the inquiry is annexed to this letter. His conclusions are set out in paragraphs 31 to 35 and his recommendation at paragraph 36 of the report. The report has been considered.

#### SUMMARY OF THE DECISION

4. The formal decision is set out in paragraph 12 below. Both appeals succeed, the enforcement notice is being quashed and planning permission is being granted subject to a condition limiting the use to a solicitor's office.

#### REASONS FOR THE DECISION

5. It is noted that the appeal site as shown on the plan attached to the enforcement notice (Plan A) and the appeal site for the Section 36 appeal (Plan B) appear to be slightly different. However it was agreed by both parties at the Inquiry that the difference was not intentional and was due only to the small scale of the enforcement notice plan. It was also agreed that the site was correctly shown on Plan B. Since it was clear to both parties what was intended it is not

considered necessary to amend the plan attached to the enforcement notice and the Secretary of State has considered the appeals on the basis that Plan B shows the correct site boundaries.

6. The evidence and facts found by the Inspector show that the appeal site is a building forming the northern end of a bungalow and consisting of 4 rooms and a small lobby giving access to a lavatory. From a date between 1936 and 1949 until January 1962 the appeal premises were used as a dental surgery along with the residential use of the bungalow as a whole. It was subsequently used as a separate dental surgery until 1971 when the premises became vacant. There was, however, a conflict of evidence as to when the premises first became a separate dental surgery, the appellant Mrs Wolff maintaining that this was in 1962 and the Council 1964 when application was made for separate rating. The building first began to be used as a solicitor's office in 1975 and continued as such until shortly before the Inquiry.

7. On behalf of your client Mrs Wolff it was contended that the appeal premises had been used as a separate planning unit from at least August 1962 and that they therefore had an established right of use as a dental surgery. It was submitted that the change of use to that of a solicitor's office was not material and there had therefore been no breach of planning control.

8. On ground (b) the Inspector concluded:-

"It appears to me that the balance of the evidence points clearly to Mr Vellender having used the appeal premises as a dental surgery from about August 1962 onwards. He lived elsewhere and this was a use separate from the dwelling in the remainder of the bungalow. This was a Class XV use and was therefore not, in my view, a continuation of the pre-1962 use when Mr Wolff had operated a dental surgery as part of his dwelling.

In 1971 the use ceased when Mr Vellender left and as the premises were unused for 4 years it may be argued that any use rights were abandoned. However Mrs Wolff's personal problems in the period 1971 to 1975 were serious and in my view it would be reasonable to regard this gap, although long, as a temporary gap between tenants. However, whatever the merits of this point, the succeeding use was as a solicitor's office and this was undoubtedly a new use not within Class XV. There was then a material change of use and it follows, in my opinion, that the appeal should fail on ground (b)".

9. These conclusions are noted. It is agreed with the Inspector that whether or not the separate use of the appeal site as a dental surgery had become established the use as a solicitor's office was a new use not within Class XV and that accordingly when this use commenced in 1975 there was a material change of use of the land for which planning permission was required but not obtained. The appeal therefore fails on ground (b).

10. On the planning merits of the appeals the Inspector came to the following conclusions:-

"It appears to me that the council's objections may be summarised as that the proposed use would be contrary to the zoning policy and that it would adversely affect other dwellings because of the traffic generated and the resulting parking difficulties.

Development Control Policy Note No. 2 paragraph 19 states, in reference to development in residential areas, that "the test in most cases is whether the development would, because of its appearance, or the noise or traffic it would generate, harm the character of the area and make it a less pleasant place to live in". An office use in the appeal premises, confined to use by a solicitor, as has been proposed, and not a general office use, would in my view have no direct effect whatever on the amenities of neighbouring dwellings: indeed noise is likely to be less than one would expect from a normal family house. But it would cause more than normal traffic.

Small premises such as these would not, I consider, accommodate more than one or 2 practising solicitors and their clerks, files etc. Thus it seems to me unlikely that more than 2 or 3 cars belonging to staff and 2 or 3 more belonging to clients would ever have to be parked in the area at one time and a smaller number would be normal. Leaving room for access for the occupants of No. 2B Cotterells and of the new house now being built, there appears to me to be ample room within the northern stub of Cotterells to park 6 cars without in any way inconveniencing other road users. There is also, but much less conveniently, the main car park on the opposite side of Leighton Buzzard Road. I conclude that parking would be no problem and I do not believe that vehicle movements would be such as to cause any material disturbance to neighbours. It therefore appears to me that on merit the proposed use, although a non-conforming use, should in these particular circumstances be permitted".

The Inspector recommended that subject to a condition limiting the use to a solicitor's office, planning permission should be granted both in relation to the appeal made under ground (a) of section 88 and the section 36 appeal against the refusal of planning permission.

11. These conclusions and recommendation are accepted and for the reasons given by the Inspector it is proposed to grant planning permission accordingly.

#### FORMAL DECISION

12. For the reasons given in paragraphs 5 to 11 above, the Secretary of State allows the appeal against the enforcement notice and the section 36 appeal and directs that the enforcement notice be quashed. He hereby grants planning permission for the use of the land known as 2A Cotterells, Hemel Hempstead for the purpose of a solicitor's office subject to the following condition:-

"The site shall be used as a solicitor's office only, and for no other purpose, including any other purpose in Class II of the Schedule to the Town and Country Planning (Use Classes) Order 1972".

#### RIGHTS OF APPEAL AGAINST THE DECISION

13. This letter is issued as the Secretary of State's determination of the appeals. Leaflet B enclosed for those concerned sets out the rights of appeal to the High Court against the decision and the arrangements for the inspection of documents appended to the Inspector's report.