

4/0487/87

WITHDRAWN

ACCESS TO INFORMATION  
TO BE RETAINED FOR  
5 YEARS FROM 28 MAY 1987

4/2206/88E

Appeal Against Enforcement Notice  
c/u to office

LOCATION: 77 London Road H.H.

DESCRIPTION: Change of use Shop to office

P/P51

28 MAY 1987

4/0487/87. CHANGE OF USE OF SHOP TO OFFICE  
77 LONDON ROAD, APSLEY, HEMEL HEMPSTEAD  
APPLICANT: MR W BAILEY

Withdrawn

DESCRIPTION -The application site comprises a ground floor shop premises with accommodation above; the whole premises is currently being used for offices by British Roofing Co.

A larger shop unit with residential accommodation above adjoins to the south-east. A new development of residential flats is located to the north of the site. A terrace of 4 cottages is located to the rear of the premises set back from the main A41 London Road.

The site itself is long and narrow; a detached double length garage is located to the rear of the site with access onto Kents Avenue.

The double garage is also currently being used by the same company as above for the storage of roofing materials. An additional unauthorised extension has also been constructed to the north-east of the garage.

#### POLICIES

##### County Structure Plan

##### Policy 6

##### Dacorum District Plan

Within the Urban Area; Policies 19 and 53

#### REPRESENTATIONS

##### Resident

One letter of objection has been received from an adjoining neighbour who is concerned by the following:

- (a) detrimental to character and appearance of residential properties in the vicinity;
- (b) lack of parking provision;
- (c) inadequate access to offices;
- (d) noises and general disturbance through resultant activity.

CONSIDERATIONS - According to our records the existing permitted use appears to be as a shop with residential above: no previous office use has been permitted. The residential accommodation was, in the past, only accessible from the adjoining shop.

A recent site inspection revealed that the first floor is now accessible from the ground floor of the application site and both floors appear to be in office use.



# Planning Inspectorate

Department of the Environment

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PLANNING DEPARTMENT  
DACORUM BOROUGH COUNCIL

Direct Line 0272-2189100x38

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GEN 1374

CHIEF EXECUTIVE  
OFFICER

3 JUL 1989

Mr M Leyland  
138 Cemetery Road  
Houghton Regis  
BEDS LU5 5DE

3 JUL 1989

Your Ref

Our Ref

T/ARP/C/88/A1910/15-17/P6

Council's Ref

JK/LP/RB/2205/88E

File no.

refer to

Cleared

30019

28 JUN 89

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9  
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981  
APPEALS BY MR W BAILEY  
LAND AND BUILDINGS AT 77 LONDON ROAD, APSLEY

1. I have been appointed, as you know, by the Secretary of State for the Environment to determine the above mentioned appeals, which are against 3 enforcement notices issued by the Dacorum District Council. I have considered the representations made by you and by the council, as well as those of interested persons. I inspected the site on Tuesday 6 June 1989.

## THE NOTICES

2. The details of the 3 notices are:

### Notice 1

- The date of the notice is 26 September 1988.
- The breach of planning control alleged in the notice is a material change of use of the land from a mixed use as a shop and residential accommodation to office use.
- The requirements of the notice are to cease the office use.
- The period for compliance with the notice is 6 months.
- The appeal was made on grounds 88(2)(a) and (h) of the 1971 Act as amended.
- The council issued the notice because the site lies outside the commercial area as defined in the Dacorum District Plan where office accommodation would normally be permitted. No special justification has been put forward to support an exception to the general policies applying and the use is therefore contrary to Policy S3.



## Notice 2

- a. The date of the notice is 26 September 1988
- b. The breach of planning control alleged in the notice is the erection of a building which is used for the storage of building and roofing materials.
- c. The requirements of the notice are to cease the storage of building and roofing materials and remove the unauthorised building.
- d. The period for compliance with the notice is 6 months.
- e. The appeal was made on grounds 88(2)(a) and (h) of the 1971 Act as amended.
- f. The council issued the notice because it was considered that the use is detrimental to the amenities of the adjoining residential properties resulting in a loss of privacy and quiet enjoyment.

## Notice 3

- a. The date of the notice is 26 September 1988.
- b. The breach of planning control alleged in the notice is failure to comply with condition (2) subject to which planning permission was granted on 3 January 1985 for a detached double garage at 77 London Road, Apsley.
- c. The condition which is alleged not to have been complied with is  
"The development hereby permitted shall be used for domestic purposes only, incidental to the enjoyment of the dwelling within the same curtilage and for no other purpose."
- d. It is alleged that the condition has not been complied with in that the garage is being used for the storage of building and roofing materials.
- f. The requirements of the notice are to cease the use.
- g. The period for compliance with the notice is 6 months.
- h. The appeal was made on grounds 88(2)(a) and (h) of the 1971 Act as amended.
- i. The council issued the notice because it was considered
  - (1) that the use deprives 77 London Road of necessary facilities for vehicle parking.
  - (2) that the use is detrimental to the amenities of the adjoining residential properties resulting in a loss of privacy and quiet enjoyment.

## THE SITE AND SURROUNDING AREA

3. The appeal site, which is known as 77A London Road, Apsley and not 77 as referred to in the Notice, occupies a long narrow plot extending south-west to a rear access on to Kents Avenue. Immediately adjoining it, to the left as seen from the road is No 77, which occupies a wider plot and deals in fireplaces. The appeal premises consist of a front customer counter with an office area behind. Stairs lead up to a first floor drawing office and to a second floor area under the roof. The latter was in course of refurbishment at the time of my inspection, with dormer windows to the front and rear. From the council's statement it appears that the upper floors were in the past accessible, as living accommodation, solely from No 77. There is now no connection from that building.

4. The rear of the building gives access to the back of the site, which leads to the building the subject of Notice 2. This building is open ended, with breeze block side walls and a transparent plastic sheeting roof. It was in use for the covered storage of various roofing materials at the time of my inspection. Beyond this is the double (tandem) garage the subject of Notice 3. This too contained roofing materials. Between the garage and access gates to Kents Avenue is an open area which was largely taken up by a skip containing waste material, preventing any vehicular access to the garage.

5. Immediately opposite the Kents Avenue access are terraced dwellings, while to the left of these is a small industrial estate. Adjoining the north-west boundary of the site is a recent residential development, Millbank. On the other side towards the rear is garden land and garage access serving a small group of older dwellings facing towards London Road.

## INSPECTOR'S COMMENTS ON THE NOTICES

6. In my opinion Notice 1, which refers to the alleged contravention as an office, incorrectly describes the use of the property. It is apparent from my inspection and the representations of local residents that your client is running a roofing business, of which the office use forms a part. The whole of the area of the business is covered by the site edged red on all 3 enforcement notice plans. I consider it to be a sui generis use, embracing administrative and sales activity and the storage of roofing and building materials, outside any of the classes of the 1987 Use Classes Order.

7. I am satisfied, despite the incorrect description, that your client fully understands the essential and overall nature of the allegations and the requirements of the notices as issued. In the circumstances I consider that I can use my powers under section 88A(2) of the Act to correct Notice 1 without injustice either to your client or to the local planning authority. I shall therefore alter the allegation at Schedule 2 to "Change of use from a mixed use as a shop and residential accommodation to use for the purposes of a roofing business"

8. Notice 2 relates to operational development in the form of a building which has been erected on the site. I will deal with this on its merits in the context of the use of the site as a whole.

9. As a result of the correction to Notice 1 I consider that Notice 3 is inappropriate. The use of the double garage for the storage of building and roofing materials is in my opinion now part of the use alleged in the

corrected Notice 1 rather than a use in non-compliance with an earlier planning condition, I shall therefore quash Notice 3 and take no further action upon it, apart from, as in the case of all three notices, correcting the land at (b) in each notice to "77A London Road, Apsley".

#### THE PLANNING ISSUES

10. All the appeals were lodged on grounds (a) and (h). Your client does not seek a permanent permission but wishes to continue for a further 12 months while relocation and redevelopment plans are worked out. There is a planning permission for a new dwelling at the rear of the site. To this end he seeks either a temporary permission or an extension of the period to comply with the notice. In my opinion the central issue in both remaining appeals is whether the activity on the site is so damaging to local residential amenity as to require its cessation with minimum delay.

11. The representations, show that the business generates significant traffic and loading activity at the Kents Avenue access, to the disturbance of local residents. The area is, from my inspection, also quite busy with traffic from the nearby industrial. The appeal site however is much more inserted into the residential part of Kents Avenue.

12. On balance I consider that, while the site is unsuitable for long term use, a continuation of the roofing business for another 12 months would not be unreasonable, in anticipation of redevelopment at the rear which may help to finance relocation. In my opinion this would best be achieved by an extension of the period to comply rather than a temporary planning permission. The former approach will ensure that the use ceases at the end of the period, without the possibility of the need for further enforcement action. This decision will apply both to the use of the land, Notice 1, and the unauthorised building, Notice 2.

13. The council have expressed concern about the loss of residential accommodation on the upper floors of 77A. It seems to me however that the area, which used to be occupied with access from No 77 is now so limited as to be unsuitable for self-contained living accommodation. The physical work, including the new internal staircase makes it improbable that the upper floors can reasonably be expected to be re-united with the next-door property. I have taken into account all the other matters raised but do not find that they outweigh the factors which lead me to my decision.

#### FORMAL DECISION

14. For the above reasons, and in exercise of the powers transferred to me, I hereby direct:

A. That Notice 1 be corrected as follows:

- (i) by the deletion at (b) of the address "77 London Road, Apsley" and the substitution of "77A London Road, Apsley".
- (ii) by the deletion from Schedule 2 of the words "Change of use from a mixed use as a shop and residential accommodation to office use" and the substitution of the words "Change of use from a mixed use as a shop and residential accommodation to use for the purposes of a roofing business".

Subject to these corrections I dismiss the appeal, uphold the notice and refuse to grant planning permission for the application deemed to have been made under section 88(B)(3).

- B. That Notice 2 be corrected by the deletion at (b) of the address "77 London Road, Apsley" and the substitution of "77A London Road, Apsley".

Subject to this corrections I dismiss the appeal, uphold the notice and refuse to grant planning permission for the application deemed to have been made under section 88(B)(3).

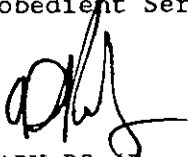
- C. That Notice 3 be corrected by the deletion at (b) of the address "77 London Road, Apsley" and the substitution of "77A London Road, Apsley".

Subject to this correction I quash the notice.

#### RIGHTS OF APPEAL RELATING TO THE DECISION

15. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal to the High Court against the decision are enclosed for the benefit of those concerned.

I am Sir  
Your obedient Servant



A D RABY BSc(Econ) MRTPI ARICS  
Inspector

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