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16 JAN 1986

File Ref.

Refer to

Cleared

Council's Ref: 4/0488/85E



PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

GTN 2074

Council's Ref: 4/0488/85E

Mr G Massey
22 Hivings Park
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Ref.				Ack.		Your reference
C.P.O.	D.P.	D.C.	S.C.	Admin.	File	

Received 16 JAN 1986 Date

Comments

14 JAN 86/

hmb
2)cb
3)JOANNE
4)STEVE
5)CESIA

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
APPEAL BY MR P J WEBBER

LAND AND BUILDING AT LEVERSTOCK GREEN FARM, LEVERSTOCK GREEN ROAD, HEMEL HEMPSTEAD

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land and building. I have considered the written representations made by you and by the council and also those made by an interested party and interested persons. I inspected the site on 18 November 1985.

2. a. The date of the notice is 6 February 1985.

b. The breach of planning control alleged in the notice is the change of use of that part of the barn on the land shown edged yellow on the plan from agricultural use to use for office purposes.

c. The requirements of the notice are the discontinuance of the use of that part of the barn on the land shown edged yellow on the plan for office purposes.

d. The period for compliance with the notice is 6 months.

e. The appeal was made on ground 88(2)(a).

3. Although your client and the council are evidently in no doubt as to the extent of the accommodation being used for office purposes I do not consider that the notice is clear on this point. The plan attached to the notice correctly identifies the area of land concerned, but Schedule 2 does not make clear that the allegation relates only to the ground floor and not to the first floor of the barn. Were the notice to be upheld it would need to be varied in this respect.

4. Leverstock Green Farm is an attractive old house set in a sizeable garden with mature vegetation. At the south end of the garden, and separated from the house by a paved yard, is the barn already referred to. The site lies in a residential area, with dwellings nearby to the south of the barn and rather farther away to the west. At the time of my inspection the greater part of the barn was used for domestic purposes associated with the appellants occupation of the house. Part was in office use, as described in the next paragraph. Limited areas were also being used for the storage of goods which appeared to be associated with your client's business, but this use seemed to me to be very small scale and inactive.

5. The accommodation subject of the notice comprises a room of about 50 sq m at the west end of the barn. At the time of my inspection it was equipped as an office, with 4 desks, 2 micro computers, telephones and filing and reference systems. While I was there it was occupied by your client's wife and 2 sons and by one other person. I formed the view that the accommodation is used predominantly as a commercial office and that use for study and leisure purposes by the family is very much a secondary thing. I find, as a matter of fact and degree, that the use of this accommodation as an office has materially changed the character of your client's property and involves development requiring planning permission.

6. The use is taking place in a predominantly residential area but, as Circular 22/80 makes clear, that in itself does not justify the refusal of planning permission. I consider the main issue in the case to be the effect of the use on the amenities of nearby residents and on the residential character of the area.

7. With regard to possible noise and disturbance arising from within the barn itself your client contends that the use is innocuous and from the nature of the activities undertaken there I would not expect any significant noise to escape from the building. There is no specific evidence from the council or from local residents of disturbance from this source.

8. With regard to traffic and activity outside the office there is a conflict of evidence about the nature and extent of the use and about its effects.

9. On the question of the nature and extent of the use I find, on the balance of probability, that present and past use of the office is as your client describes it, namely that the use is very largely by your client, his wife and 2 sons, who are resident at Leverstock Green Farm, with occasional use and visits by others, and that the use is in connection with the administration of your client's business, which is located elsewhere. Although there are instances of use of the office by persons not resident at Leverstock Green Farm there is no specific evidence of substantial use of the room by such persons.

10. With regard to the effects of the office use I have concluded that the traffic and activity associated with it is not at present so substantial as to cause any serious harm to the residential amenities of nearby residents nor to the residential character of the locality. Your client's contention is that the use of the site is not such as to do material harm and he states that "overspill" parking outside his garden is extremely rare. Although the council say that such parking has been occurring no specific evidence is produced and at my site inspection I could find no indication on the ground of substantial parking activity. The representations by the residents living nearest to the barn are also rather unspecific and do not suggest to me that these residents are seriously disturbed by the current and past office use on the site.

11. I consider that the use of the office by persons resident at Leverstock Green Farm is likely to create less traffic to and from the site than would be created by many other forms of office use. The access track to the house and barn is immediately off a busy distributor road and the track lies some distance from the nearest dwellings. The barn itself shields the nearest adjoining dwelling, No. 3 Windermere Close, from noise associated with activity in the yard between your client's house and the barn. I do not think that the present office use has any harmful effects on the privacy enjoyed by nearby residents because of the positions of the access track and yard.

12. The garaging and car parking area on your client's property is screened from public view and the office use has little if any effect on the appearance of the locality at present.

13. I conclude that the past and present office use does no serious harm to the amenities of nearby residents nor to the character of the locality.

14. Some local residents are concerned about the possibility of intensification of the use in future and I understand that concern. Thus the amount of traffic generated by the use could increase significantly if the use ceased to be largely by your client and his family or if they ceased to live at the house. The future intensity of use of the premises is also difficult to foresee, and could well intensify, because the office operates in a support role in connection with a business located elsewhere. If the use of the premises for office purposes did intensify this could have serious consequences for residential amenity and for the character of the locality. However in my opinion such potential dangers could be avoided by the imposition of appropriate conditions on any planning permission granted.

15. Turning to the other matters raised I do not find the council's objection to the use on office policy grounds to be overriding. Given the fairly limited scale of the present use, and its supporting role in relation to an existing business and having regard to the limited effects on nearby residential land uses I am not convinced that the continuation of the office use would undermine the objectives of Policy 53 of the district plan. Because of the particular circumstances involved in this case the grant of conditional planning permission would not set a damaging precedent. I recognise the council's concern about possible pressure for expansion of the office floorspace, but any proposal for such expansion would need to be the subject of separate planning consideration.

16. Having examined all the evidence I have concluded that the appeal under ground (a) should succeed and conditional planning permission will be granted on the deemed application.

17. In the light of my conclusions in paragraph 14 above and in order to protect residential amenity and the character of the area, the permission will be subject to conditions making the use personal to your client rather than running with the land and requiring that it should cease when he ceases to occupy Leverstock Green Farm as his dwelling. For the same reasons I shall also limit the duration of the permission to 3 years in the first instance. This will allow the council to review any changes to the use that may occur. I note that your client is prepared to accept conditions on these lines.

18. I have had regard to the fact that Leverstock Green Farm is a listed building and have considered all of the other matters raised but find nothing to change my decision.

FORMAL DECISION

19. For the above reasons and in exercise of the powers transferred to me I hereby allow your client's appeal, direct that the notice be quashed and grant planning permission for the change of use of part of the ground floor of the barn at Leverstock Green Farm, Leverstock Green Road, Hemel Hempstead to use for office purposes, subject to the following conditions:

1. this permission enures only for the benefit of Mr P J Webber and not for the benefit of the land;
2. when Leverstock Green Farm ceases to be used by Mr P J Webber as his dwelling the use hereby permitted shall cease; and
3. the use hereby permitted shall be discontinued within 3 years of the date of this permission.


20. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

21. Attention is drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

RIGHT OF APPEAL AGAINST DECISION

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

I am Sir
Your obedient Servant



A J J STREET BA DipTP MRTPI
Inspector

ENCS