

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972



## DACORUM BOROUGH COUNCIL

To Metropolitan Estates Ltd  
The Old Brewery  
St John's Road  
Isleworth, Middx

John Pelling & Partners  
Northside House  
Mount Pleasant  
Barnet  
Herts EN4 9EB

Change of use to B1 Offices

at Brownlow Arms, Ravens Lane, Berkhamsted

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 6 March 1989 and received with sufficient particulars on 28 March 1989 and shown on the plan(s) accompanying such application.

The reasons for the Council's decision to refuse permission for the development are:—

In the opinion of the local planning authority, insufficient car parking spaces are provided within the site to serve the amount of office floor-space proposed.

Dated Seventh day of September 1989

Signed

Chief Planning Officer

SEE NOTES OVERLEAF

P/D.15

#### NOTE

1. 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 s.36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form obtainable from the Secretary of State for the Environment, Tollgate House, Houlton Street, Bristol, BS2 9DJ). 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.
2. 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 Borough 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.
3. 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 s.169 of the Town and Country Planning Act 1971.



# Planning Inspectorate Department of the Environment

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TEAM 2

Boyer Planning Town Planning Consultants Westminster House 77/79 High Street EGHAM Surrey TW20 9HE		PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL						GTN 1378	
		552/89						Your reference	
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		21 JUN 1990						Date	
		Received						20 JUN 90	
		SECRETARIES							

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
 APPEAL BY GRAND METROPOLITAN ESTATES LIMITED  
 APPLICATION NO: 4/0552/89

- As you know, the Secretary of State for the Environment has appointed me to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for a change of use of public house to offices at "Brownlow Arms", Raven Lane, Berkhamsted.
- From my accompanied inspection of the site and surroundings on 23 May 1990, and from my consideration of the written representations made by you, the local planning authority, the Berkhamsted Town Council and interested persons, including those made on the original application which have been forwarded to me, I am of the opinion that the decision in the appeal rests primarily on whether the area available on the site for off-street parking would be adequate.
- When the application subject of this appeal was originally made in March 1989, the area to be used as offices included the whole of the former public house, with its living accommodation on the first floor, and a detached outbuilding adjacent to the western and northern boundaries of the site. The gross floor area was given as 359 sq m, and it was proposed to provide 8 car parking spaces of less than the normal standard size (only 2.2 m by 4.8 m) as this was the maximum that could be made available in addition to the provision of turning space. On the basis of a parking space for every 35 sq m of office space (up to 500 sq m in total size), which was the criterion being used by the Council at the time, 11 spaces would normally have been required.
- The proposal was stated to be a change of use from A2 Office Use to B1 Office Use. This was a somewhat confusing way of describing the change of use as the building had in the past only been used as a public house with residential accommodation above and a store/garage behind. I gather that the proposal was so worded because a change of use from Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 to Class A2 is 'Permitted Development' under the provisions of the General Development Order 1988, and it was considered that the previous use came within Use Class A3. I note that although the local planning authority originally agreed with this interpretation of the Order, they have recently expressed the view that a public house with residential accommodation does not come within Class A3.
- This is of course a matter for legal interpretation, but it is not necessary for me to express an opinion as you subsequently changed the application, on 11 August 1989 to request a change of use from public house to Class B1 Offices. On 16 August you further amended the application to delete the outbuilding from the proposal, and this reduced the proposed gross floor area of the proposed offices by 48 sq m to 192

(you had apparently recalculated the total to be only 240 sq m and not 259 sq m). You accordingly proposed that 6 parking spaces of standard size should be provided to meet the Council's requirements.

6. Although the change of use of the outbuilding had been dropped from the proposal, you did not give any indication of how the vacant outbuilding might otherwise be used, and bearing in mind your previous contention that it already enjoys 'permitted development' rights for use as Class A2 offices, I am of the view that provision should be made for off-street parking in connection with such an existing use before any new use of the main building was permitted. If that were done, there would be insufficient space to provide the parking area required for new B1 Offices in the main building as well. Moreover at the time the Council determined the application in September 1989, they were mindful of the very considerable congestion that exists from on-street parking in this older part of Berkhamsted, which is within the designated Conservation Area. This led them - apparently at the same planning meeting as they actually determined your clients' application - to increase the scale of parking for offices from one space for each 35 sq m to one per 25 sq m. This meant that 8 spaces, not 6, would be required for offices in the main building only, and this number was not available. You not unnaturally consider this change in the parking requirement at such a late stage in your negotiations was unfair, although of course it does not affect the other objection relating to the need for more parking in connection with a use of the outbuilding.

7. The parking problem in the area appears to me to have arisen mainly from the lack of off-street parking at most of the older houses. There appears to be a shortage of parking at other offices nearby, and there is also the school in Ravens Lane, which no doubt generates some demand for parking, in addition to that from commuters using the nearby station who park in the streets where there are no time restrictions. The large Wellcome Foundation premises on the southern side of the appeal site apparently has adequate parking space as their car park was partly empty at the time of my visit.

8. The unsatisfactory situation has led to strong objections to further offices from the Town Council and interested persons. The former would have wished the office use to be refused on grounds of loss of residential accommodation the public house contains, and local residents have objected for a variety of other reasons, mainly associated with the obstruction caused by non-residents parking in front of their houses, and the introduction of further vehicles that would pollute their conservation area living environment with additional noise and fumes. However the local planning authority accept that the area is zoned primarily for commercial purposes, and that the lack of car parking is the only substantial objection to your clients' proposal.

9. Having seen the surroundings, I accept that unsatisfactory conditions exist from cars being parked in the narrow streets in the vicinity of the appeal premises, in some instances in positions that makes manoeuvring in and out of the existing vehicular accesses very difficult. At the present time, it seems to me that there is a strong objection on planning grounds to any development that would exacerbate the problem further, but this is not to say that there should be a complete embargo on all development. However I would support the Council's view that each proposal should be considered strictly against their new parking scales. When any planning criteria are changed it usually results in some applicants finding their proposals are no longer acceptable, but I am of the view that the new requirement for one parking space for every 25 sq m of business premises is by no means unreasonable under present-day conditions - indeed for some types of use now falling within Class B1 of the Use Classes Order, eg research and computer operations, or the manufacture of goods or components that previously came within the "light industry" Class, it may be on the low side, though in town centre locations central car parks should be provided whenever possible. Although your clients' proposal is now for only 192 sq m of office space (with some 32 sq m of circulation space which I consider should be included), the parking requirement under the Council's revised standard would be 8 spaces and it could not be properly met within the present open space available. Moreover if the existing outbuilding were to be used for some other purpose, which might well be

impossible to prevent from a planning point of view, the overall amount of parking/turning space would then be seriously inadequate. I thus consider the Council's decision to refuse permission for the present proposal as at present made is well-founded in view of existing circumstances.

10. However I note from para 3.5 of your written statement dated 15 February 1990 that your clients now apparently intend to demolish the outbuilding, subject to planning permission being granted as it is within a Conservation Area, when the future of the Brownlow Arms is known. This does not appear to have been mentioned before, and you informed me at the site visit that an application had in fact subsequently been made. When you showed me the site, I gained the impression that if the outbuilding could be demolished, the space would then be available to provide additional parking, which of course would be most welcome in view of the congestion in the area. Moreover it would also enable some modest landscaping scheme to be carried out, which would soften the existing hard-surface character of the area, and I am sure be most appreciated by residents living opposite in Chapel Street, bearing in mind the presence of the large car park on the southern side, and the smaller one to the west. Subject to the proposal being altered in this way, the objections, which I consider exist at present, could be overcome.

11. You undertook to let me have written evidence of the above, and in your letter dated 24 May 1990, you have confirmed that the application (reference No 4/0449/90) for demolition of the outbuilding was made on 2 March 1990. However you have not given any firm indication about the future use of the land if permission were granted. I find the fifth paragraph of your letter confusing as you appear to be implying that some other development, which as you say would have to be the subject of a further application, might be proposed. You also state that the building is not within the present appeal site, but although it is no longer subject of the proposed change of use proposal, it seems to me it is shown as being within the site on DWG No 127.04/3B accompanying the revised application, on which I am now determining the appeal, as indeed it was on Plan 127.04/3 accompanying the original application.

12. Bearing in mind that there is no way of requiring the outbuilding to be demolished, and taking account of your previously expressed view that it already enjoys permitted development rights for A2 office use, I fully agree with the point you make in paragraph 3 of your letter dated 24 May that it would be an improper use of a planning condition for me to grant a permission for the proposed offices subject to a limitation that it could only be exercised if and when the land occupied by the existing stable block became available for car parking. So-called 'negative' conditions, to which you refer, can be used on occasions to enable permission for a proposal to be granted subject to some other requirement being met before it could be implemented, eg the availability of an improved sewage treatment works to serve new housing, but I am firmly of the view that it would be entirely inappropriate in this instance. To do so would be prejudging that the Council would approve the application for the demolition of the outbuilding, as a refusal would, as you say, leave your clients with a planning permission that could not be implemented. Moreover it might well be regarded as an attempt to influence a decision that is the Council's responsibility.

13. As I have indicated, my objections to your clients' proposal could be overcome if the land at present occupied by the outbuilding became available for inclusion in an enlarged car parking/landscaping scheme for the proposed offices, but this is a matter which the Council have not so far had the opportunity of considering. I have therefore decided that it is necessary to refuse permission for the present application so that they can do so, if they decide to allow the application for the demolition of the outbuilding.

14. I have examined all the other matters raised in the written representations, but there is nothing of sufficient substance to outweigh those considerations that have led me to my decision that it is necessary to refuse planning permission for the proposed development in the present circumstances.

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

I am Gentlemen  
Your obedient Servant

A handwritten signature in cursive script, appearing to read "J M Daniel".

J M DANIEL DFC FBIM  
Inspector