



Department of the Environment

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CLERK EXECUTIVE

- 3 NOV 1980

Your reference

Our reference

T/APP/5252/A/80/07801/G8
 Date

29 OCT 1980

F V Savage Esq
 Savage and Partners
 4 Red Lion Street
 CHESHAM
 Bucks HP5 1HF

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY A W HALL (PUBLICATIONS) LTD
 APPLICATION NO:- 4/0558/80

1. I refer to this appeal, which I have been appointed to determine, against the decision of the Dacorum District Council to refuse planning permission for the use of the first and second floors as offices at 226 High Street, Berkhamsted, Herts. I have considered the written representations made by you and by the Council. I inspected the premises on 8 October 1980.
2. From my inspection of the premises and consideration of the written representations made, I am of the opinion that the main issues in this case are whether or not the appeal proposal, if permitted, would conflict with the current planning policies of the Council; but if so whether there are any particular reasons why such policies should be overridden to allow the appeal proposal to succeed.
3. The Council have stated that Policy No 6 of the County Structure Plan restricts office developments to those required to serve existing firms in Hertfordshire or the resettlement of firms at present unsatisfactorily sited in the County or to a firm serving the local community. Your client's firm does not appear to fall clearly into any of these categories. But I believe that the fact that your client has occupied and worked from, No 226 High Street for the past 9 months must be considered. It would seem clear to me that he is now established in the appeal premises. He is also employing some local labour even though he himself does not live in the County. I note particularly that clause (iv) of the above quoted Policy No 6 does allow a possible exception to the strict policy where the employment situation would justify an exception. It is of course a matter of opinion whether the present national unemployment problems should justify an exception to the Council's Policy No 6 but in this case it is my view that an exception to the application of the strict policies, which may have been justified before and may well be justified in the future, is justified now. I believe that it would be unreasonable at this time to penalise the commercial activities of an existing business by rigidly applying Policy No 6 (which in any case has an "escape clause") to your client who is already established in the appeal premises. The use of the entire floor areas of the first and second floors in the way I saw during my visit seemed to me to be commendable and an indication of how much the business would be disrupted if evicted from 226 High Street. I do not believe that to allow this appeal would conflict to an unacceptable extent with the policies of the Council.
4. I have considered all the other matters raised in the written representations but find they should not alter my decision.

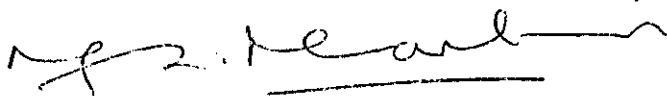
5. For the above reasons, and in exercise of the powers transferred to me, [I hereby] allow this appeal and grant planning permission for the use of the first and second floors at 226 High Street, Berkhamsted as offices in accordance with the terms of the application (No 4/0558/80) dated 28 March 1980 and the plans submitted therewith, subject to the following condition:

1. the office accommodation shall not be occupied by any other firm but A W Hall (Publications) Ltd.

6. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Sir

Your obedient Servant

A handwritten signature in cursive script, appearing to read 'F R Martin', written over a horizontal line.

F R MARTIN BSc CEng FICE FIMStructE
Inspector

Under the provisions of section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971).

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case may be, has exceeded his powers); or
2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

TCP 405

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other
Ref. No.

DACORUM

THE DISTRICT COUNCIL OF

IN THE COUNTY OF HERTFORD

To Alan W. Hall (Publications) Ltd.,
226 High Street,
BERKHAMSTED,
Herts.

Messrs. Savage & Partners,
4 Red Lion Street,
CHESHAM,
Bucks.

..... Use of 1st and 2nd floor as offices

.....

at .. Alan W. Hall (Publications) Ltd., 226 High Street,

..... 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 26th March, 1980, and received with sufficient particulars on 28th March, 1980, and shown on the plan(s) accompanying such application..

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

Policy 6 of the approved County Structure Plan (1979) restricts office developments to those required to serve existing firms in Hertfordshire, the resettlement of firms at present unsatisfactorily sited in the County or to a firm serving the local community. The development proposed would introduce a firm which does not come within the terms expressed and no evidence has been offered as to the existence of exceptional circumstances.

Dated 8th day of May, 19 80.

Signed
Designation Director of Technical Services.

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) 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 section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Secretary of State for the Environment, Whitehall, London, S.W.1.) 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.
- (3) 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 District 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.
- (4) 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 section 169 of the Town and Country Planning Act 1971.