

cm



Department of the Environment and Department of Transport

Common Services

Room 1417 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218

Switchboard 0272-218

GTN 2074

CHIEF EXECUTIVE
OFFICER

1 SEP 1986

File Ref.

Ref. ID 927

Cleared

17652

Whitby and Richardson Ltd
8 Great Road
HEMEL HEMPSTEAD
Hertfordshire

Your reference

DJW/GJW

Our reference DEPARTMENT

T/APP/A1910/3/85/012580/P2

Date

28 AUG 86

Ack.

Ref.

C.P.O.

D.E.

D.C.

B.C.

Admin.

File

Received

-1 SEP 1986

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/0646/85

- As you know, I have been appointed by the Secretary of State for the Environment to determine your appeal against the decision, by the Dacorum Borough Council, to refuse planning permission for the use of the garage forecourt at 8 Great Road, Hemel Hempstead, for the display of vehicles for sale. I held an informal hearing of the appeal on 10 July 1986. As vehicles for sale are displayed on the forecourt at present, the application falls to be dealt with under the provisions of Section 32 of the Act.
- From the representations made and my inspection of the site, I consider that the issue in this appeal is whether your proposal would be so harmful to the amenities of the surrounding area that, despite the normal presumption in favour of allowing applications for development, the refusal of planning permission is justified. The possible harm, in the council's view, would arise mainly from increased traffic and activity and from the likelihood of more cars being parked in the street.
- Your premises at Great Road have been a garage for many years (Document 5). At the hearing you explained that there is a very low volume of petrol sales from the forecourt, and that the main business is repair work and servicing. Plan B shows that you have 4 servicing and repair bays, a set of rollers for MOT tests, and a spray room. The showroom at the front of the premises can take 3 new vehicles. The part of the forecourt in question in this appeal lies in front of the showroom, between it and the pumps. Five cars were on display in this space at the time of my inspection, despite the existence of an enforcement notice (Document 7) which prohibits its use for that purpose.
- You explained that your firm has 2 other premises in the locality, one at Lawn Lane, Hemel Hempstead, and the other a few miles away at Berkhamsted. You sell new cars from both those premises, and the re-sale of used cars taken from customers in part-exchange is an essential part of the firm's business. To keep pace with the part-exchange turnover, you would expect to sell about 600 used cars a year, about a third of them from Great Road; it was also explained that used car sales depend to a certain extent on a local catchment population, so that it would not be possible to achieve the same volume of sales through the Berkhamsted premises alone. None of this background information was questioned by the council, and I have no reason to doubt the importance of used car sales in the total business activities of the firm.

5. The authority's objection to the display of cars for sale at Great Road is two-fold. First, the council contend that they would attract more customers to the garage, and therefore increase the volume of traffic and general activity in what is otherwise a quiet residential road with little traffic. Secondly, they argue that all the space available on the site is needed for parking in connection with the firm's other activities, and that the use of some of that space to display cars for sale would lead to vehicles being parked in the street. I find the first argument unconvincing. Although used cars for sale no doubt attract some additional vehicles, I do not consider the volume would be significant enough, bearing in mind the comings and goings inherent in the established repair and servicing business, to warrant the refusal of planning permission.

6. In my opinion the council's second objection carries more weight, particularly because parking standards for repair garages and service stations are incorporated in the adopted District Plan (Document 4). I understand that these standards were drawn up in consultation with the trade. According to the council's calculations your business at Great Road, if the sale of used cars were permitted, would need 32 parking spaces. Your assessment of need, based on your particular working-practices and experience is 22. At the time of my inspection, there happened to be 26 cars on the site, excluding those for sale and those on which work was actually in progress. For the purposes of this appeal, I consider the council's figure is to be preferred because permission, if granted, would run with the land and the business of any future occupier might be operated differently from your own.

7. In assessing how many parking spaces are available there are 2 difficulties. Firstly, your parking area at present includes a piece of land (marked 4 on Plan B) which was formerly part of the garden of 10 Great Road, and in respect of which the council have issued an enforcement notice. An appeal against the notice is pending. The council say that the land subject to enforcement action could accommodate 3 cars, but 5 were parked there at the time of my visit. The second difficulty is that parking spaces are not marked out on the ground, and you maintain that cars could be, and are, packed in far more closely than the council assume. The council's estimate of the capacity, assuming that the space behind the pumps were taken up by sale cars, is 28 (Plan C). Your estimate is 35. Both estimates include the spaces available on the "enforcement land".

8. I accept your argument that the average amount of space needed for parking a car in a garage compound is far less than would be required in a conventional car park, because there is no need for room to be left on both sides of a vehicle and because staff can move one car to let another in or out. At the time of my inspection, cars were parked very close together, and although there were 26 on site I think it quite possible that several more could have been squeezed in. It is quite usual, in my experience, for garages to park cars in this way and any future occupiers of the site would probably follow a similar pattern.

9. Taking the council's estimate of need (32) and your estimate of capacity (35), my conclusion is that parking space on the site is just about adequate, provided the "enforcement land" remains available. However, if you were no longer able to use that land the number of spaces available would fall, on your estimate, by 5 or 6.

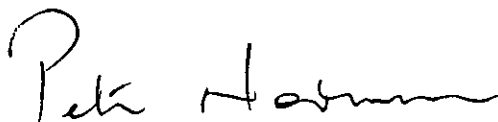
10. The decisions on this appeal and your appeal against the enforcement notice are therefore closely related because, if your appeal against the notice fails, the area remaining available to you would be inadequate to meet the parking needs of the business if the used car sales element which is the subject of this appeal were permitted. I have decided that it would be wrong to prejudice the enforcement appeal, and that my decision in this case should take account only of that part of your site which is not in dispute. On that basis, the space available for parking fails to meet the standard required, and I agree with the council that this would

be likely to lead to on-street parking in Great Road, which would be harmful to the amenities of those living nearby. Should the enforcement appeal be decided in your favour, it would of course be open to you to re-apply to the council for permission to display cars for sale.

11. In reaching those conclusions, I have taken into account all the matters raised at the hearing or in writing, including your argument that the space between the showroom and the pumps is of no use for customer parking because access to it is very restricted. I accept that argument (although the space could perhaps be used by staff), but it must be remembered also that the display of cars there would itself add to the total need for parking spaces on the site. Therefore, neither this consideration nor any other point made affects my conclusion that, in the present circumstances, I should not be justified in allowing the appeal.

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

I am Gentlemen
Your obedient Servant

A handwritten signature in cursive script, appearing to read "Peter Norman".

PETER NORMAN MA MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr D J Whitby IMI

- Director of the appellant company.

FOR THE PLANNING AUTHORITY

Mr A E Markham BA(Hons) MRTPI

- Senior Assistant Planner,
Dacorum Borough Council.

DOCUMENTS

Document 1 - List of persons present at the hearing.

- " 2 - Notice of hearing and notification list.
- " 3 - Letter supporting the council.
- " 4 - Extracts from the Dacorum District Plan, 1984.
- " 5 - Schedule of Planning History of the appeal site, put in by the council.
- " 6 - Planning applications and Decision Notices in respect of the appeal site.
- " 7 - Enforcement Notice, 25 July 1973.
- " 8 - Appeal Decision Letter (A/77/1290) in respect of the appeal site.
- " 9 - Conditions suggested by the council.

PLANS

Plans A and B - The application plans.

Plan C - Schematic car parking layout for the appeal site, put in by the council.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

DACORUM BOROUGH COUNCIL

To Whitby & Richardson Limited
8 Great Road
Adeyfield
Hemel Hempstead
Herts

Denmead & Co.
2a Cotterells
Hemel Hempstead
Herts

..... Use of garage forecourt for display and sale of
..... motor vehicles
.....
at 8 Great Road, Hemel Hempstead
.....
.....

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 and received with sufficient particulars on 28.5.85. and shown on the plan(s) accompanying such application..

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

- (1) The proposed use would intensify and consolidate to an unacceptable degree the sale of motor vehicles from this site to the detriment of the amenities of this residential area.
- (2) The proposed use would reduce the number of parking spaces available for the existing uses on the site and would, therefore, be likely to lead to obstruction on the adjacent highway.

Dated 18th day of July 19 85

Signed.....

W. B. Marshall

SEE NOTES OVERLEAF

P/D.15

Chief Planning Officer

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.