



Department of the Environment and Department of Transport

Common Services

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19494

Mr M J Court
Viewpoint
Felden Lane
HEMEL HEMPSTEAD
Herts

CHIEF EXECUTIVE
OFFICER

C FEB 1987

File no. *20*
Date *20/2*

PLANNING DEPARTMENT DACORUM DISTRICT COUNCIL			
Ref.		Ack.	
BS2 9DJ	C.P.O.	D.P.	27C.
Direct line 0272-218 927		B.C.	Admin.
Switchboard 0272-218811			File
GTN 2074 Received		20 FEB 1987	
Comments			
Your reference			
Our reference T/APP/A1910/A/86/56587/P4			
Date			

19 FEB 87

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/0863/86 *M.J. COURT*

1. As you know I have been appointed by the Secretary of State for the Environment to determine your appeal. Your appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the change of use from ancillary offices to offices (Class II) of premises at 54 Duxons Turn, Hemel Hempstead. I have considered the written representations made by you and by the council. I inspected the site on 19 January 1987.

2. From my inspection of the site and its surroundings and the representations made I have formed the view that essentially what I have to decide is how far, if at all, the objectives of the relevant Local Plan policies would be harmed or put at risk if the proposal were to be permitted. The appeal premises are a small office suite forming part of a larger building on an industrial estate. They have been used as offices in the past in conjunction with the main use of the whole building and in these circumstances it is reasonable that there should be no site-specific objection to the proposal on the part of the council. On inspection I found myself in agreement that the premises are suitable for the use proposed, and indeed with direct access from a public road with ample parking available lend themselves to separation from the remainder of the building of which they are part. The council's objection is substantially that independent office uses are not appropriate in this industrial area, but should be located in the suitably designated commercial area of the town, and that to make an exception in this case would threaten the future operation of the policy and the wider objectives of the District Plan.

3. It appears that the apprehended threat to the policy stems from a concern that the proposal would set a precedent generating other applications of more major significance which would be difficult to resist, and I have therefore considered the likelihood of this. The matter of precedent can give rise to difficulties but it is clear, in my view, that each application falls to be dealt with on its own merits and only insofar as the merits of one application equate with another should the decision be the same in both cases so as to achieve consistency. There are in this case particular circumstances, as I have specified, making a separate office use both appropriate and feasible, and I have no evidence on which to form a conclusion that those circumstances could be repeated on such a widespread scale on this industrial estate, or in other areas, as to alter fundamentally its character by having to grant other similar permissions. Indeed my observations tended to lead me to the contrary conclusion, that at least in the area under consideration, the features of this application are relatively unusual. There is accordingly the potential only for limited change having no material effect on the character of the area.

4. I am not told how it is thought that the wider objectives of the District Plan might be threatened, or indeed what are those wider objectives. I accept that for various reasons it is generally in the interests of proper planning that certain areas should be reserved predominantly for similar and compatible uses, but the rigid application of zoning policies is contrary to current national policy, particularly if small-scale business activity is thereby impeded, I take the view in this case that the proposal could promote a small office business, it could help the business run in the adjoining part of the building by facilitating the use of its surplus accommodation, and a useful business service could perhaps be provided from the appeal premises. These factors are in my judgement the dominant policy considerations which apply to the case, especially since the alleged harm to Local Plan objectives has not been demonstrated.

5. I have considered all other matters raised, but have found no other significant obstacle to the granting of consent in the case. My assessment of the various policy implications therefore makes this the appropriate course for me to take.

6. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use from ancillary offices to offices (Class II) of premises at 54 Duxons Turn, Hemel Hempstead in accordance with the terms of the application No 4/0663/86 dated 12 May 1986 and the plans submitted therewith, subject to the condition that the development hereby permitted shall be begun not later than 5 years from the date of this letter.

7. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

8. 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



J M TURNER LLB Solicitor
Inspector

ENC

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

AJP

DACORUM BOROUGH COUNCIL

To M J Court
 'Viewpoint'
 Felden Lane
 Hemel Hempstead
 Hertfordshire

Change of use ancillary offices to offices (Class II)
 at 54 Duxons Turn, Hemel Hempstead

Brief
 description
 and location
 of proposed
 development.

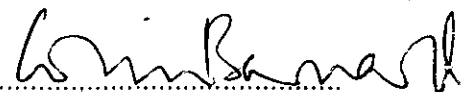
In pursuance of their powers under the above-mentioned Acts and the Orders and Regulations for the time being in force thereunder, the Council hereby refuse the development proposed by you in your application dated 12th May 1986 and received with sufficient particulars on 12th May 1986 and shown on the plan(s) accompanying such application.

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

The proposal is in contravention of Policies 47 and 53 of the Dacorum District Plan.

Dated 26th day of June 1986

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.