

TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref. No. 4/0693/93

The Marlowes Partnership
c/o Chesterton International
54 Brook Street
London

A J Hines & Co
9/10 Savile Row
London
W1

DEVELOPMENT ADDRESS AND DESCRIPTION
=====

Unit M S U 2, Marlowes Centre/Marlowes, Hemel Hempstead

CHANGE OF USE SHOP TO A2 USE

Your application for *full planning permission* dated 19.04.1993 and received on 18.05.1993 has been *GRANTED*, subject to any conditions set out on the attached sheet(s).

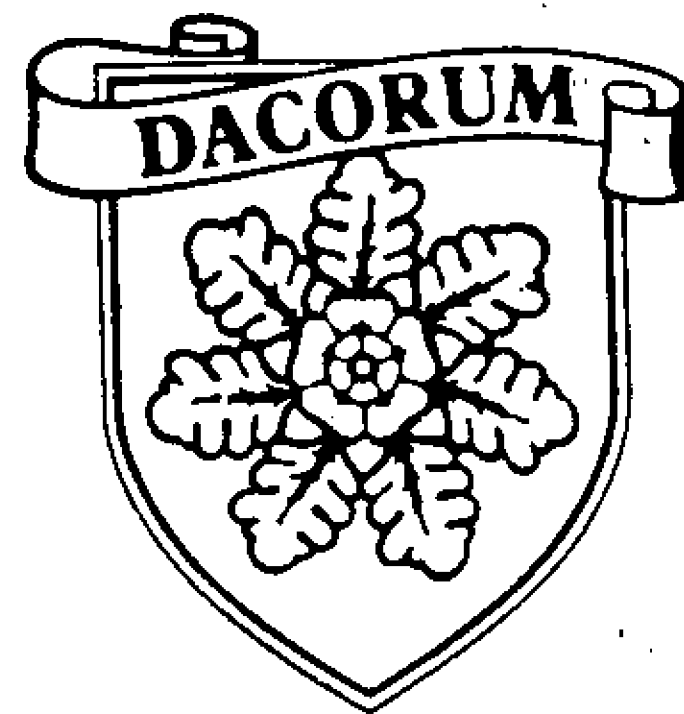
Director of Planning.

Date of Decision: 24.06.1993

(encs. - Conditions and Notes).

CONDITIONS APPLICABLE
TO APPLICATION: 4/0693/93

Date of Decision: 24.06.1993

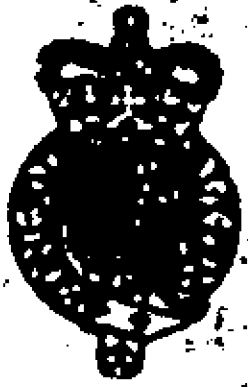


1. The development to which this permission relates shall be begun within a period of five years commencing on the date of this notice.

Reason: To comply with the provisions of s.91 of the Town and Country Planning Act 1990.

2. A front window display appropriate to the shopping centre shall be maintained at all times.

Reason: To ensure a satisfactory appearance.



The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

Room
Tollgate House
Houlton Street
Bristol BS2 9DJ

Direct Line
Switchboard

0272-218
0272-218811
0272-218
1374

PLANNING DEPARTMENT	
DACORUM BOROUGH COUNCIL	
Ref.	
On	TCB
Received	19 JAN 1994
Comments	

Mr Mark A Pilgrim
19 Brickfield Avenue
HEMEL HEMPSTEAD
Herts
HP3 8NP

Council Reference:
4/064/93 4/1461/93 EN
Our References:
T/APP/C/93/A1910/630801
T/APP/A/910/A/93/229572
Date: 18 JAN 1994

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTIONS 78 AND 174 AND
SCHEDULE 6/
PLANNING AND COMPENSATION ACT 1991
LAND AND BUILDINGS AT 19 BRICKFIELD AVENUE, HEMEL HEMPSTEAD

1. I have been appointed by the Secretary of State for the Environment to determine your appeals against an enforcement notice issued by the Dacorum Borough Council and a refusal of planning permission by the same Council, both concerning the above mentioned land and buildings. I have considered the written representations made by you and the Council and also those made by interested persons directly to the Council which have been forwarded to me. I inspected the site on 30 December 1993.

THE NOTICE

2. (1) The notice was issued on 31 August 1993.
- (2) The breach of planning control as alleged in the notice is the erection of a boundary wall along the south-west boundary of the land shown edged green on the plan.
- (3) The requirement of the notice is to reduce the height of the boundary wall to one metre above ground level.
- (4) The period for compliance with this requirement is two months.

GROUND OF APPEAL

3. Your appeal is proceeding on ground (a) as set out in section 174(2) of the 1990 Act as amended by the Planning and Compensation Act 1991, that is to say that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

THE PLANNING APPLICATION

4. The development for which the Council has refused planning



permission is the erection of front garden wall and pergola at your property, 19 Brickfield Avenue, Hemel Hempstead. The wall and pergola have been erected and I shall therefore treat the application as having been made under Section 73A of the Town and Country Planning Act 1990, as amended.

THE APPEAL ON GROUND (a) AND THE PLANNING APPEAL.

5. From my inspection of the appeal site and its surroundings and from the written representations made, I am of the opinion that both appeals depend on two main issues which are firstly, whether the retention of the front garden wall would cause undue harm to the character and appearance of the area and, if so, secondly, whether there are any very special circumstances in this case to outweigh such harm.

6. The Council refer to the following policies of the Hertfordshire County Structure Plan Alterations 1990, approved 23 June 1992. Policies 47 and 48 seek to protect and enhance the character and form of existing settlements; Policy 49 seeks to ensure that development is concentrated in towns set out in the policy, one of which is Hemel Hempstead.

7. The Dacorum District Plan was adopted on 25 January 1984. Policies 18 and 66 set out matters to which proposals for new development should pay particular regard; the latter relates to residential development.

8. Following a Public Inquiry in May 1992 into objections to the Dacorum Borough Local Plan Deposit Draft the Council have received the Inspector's report. Although the Local Plan has not yet been adopted it is used for development control purposes by the Council. Policy 1 seeks to ensure that development is accommodated generally in the three towns set out in the policy. Policy 7 gives guidance for the land use division in the towns and large villages set out in the policy. The aim of Policy 8 is to ensure that all development proposals are to a high standard; it seeks to ensure they satisfy eleven criteria contained in the policy. Policy 9 aims to ensure development proposals meet environmental guidelines set put in the Plan. Policy 10 relates to planning conditions and legal agreements.

9. Dealing with the first main issue, Brickfield Avenue is a long cul-de-sac serving detached and semi-detached houses laid out to a regular and even pattern on both sides of the road. It is located within a large housing estate. The front garden areas and the front boundary treatments which abut the highway to enclose them make an important contribution to the street scene. They contribute to the open and spacious character of the area. The boundary treatments to the front amenity areas are mainly brick walls, about one metre high, some of which contain decorative blocks. There are also some 6 feet high close boarded fences which enclose the side or rear gardens of properties that front other roads. The brick wall, the subject of these appeals, is situated adjacent to the long side boundary of No. 1, The Wayside which is formed by such a close boarded fence. Although it is generally the same height as the fence I found the wall to have a substantially harsher appearance than the timber boards

even though the bricks have weathered since the wall was erected. More importantly, the wall is noticeably different from the front boundary treatments of the nearby houses, to which it has a much stronger relationship. I found the wall to be an alien feature in the street scene which is clearly seen from many points in the surrounding area. I conclude that the retention of the wall would cause undue harm to the character and appearance of the area. You offer to clad the brickwork with wooden panels and intend to cover them, or the wall, with flowering and evergreen plants. I do not consider that either of these measures would be sufficient to overcome the impact that the wall has on the character and appearance of the area.

10. Turning now to the second issue, you have erected the wall to provide security for your young children and to protect your property. Access to the site is via a wide gap in the wall across which there is a three foot high double gate. In my view these gates would prevent a young child from leaving, or deter a felon from entering, the site, provided that they are closed. In my opinion any additional security provided by the six foot wall is not sufficient to outweigh the harm that I find its presence causes to the street scene. If planning permission is granted in this case, in the absence of what I consider to be the very special circumstances to justify the scheme as an exception to the policies, there is a real risk that it would lead to a proliferation of similar proposals which could lead to unacceptable pressures for development. Accordingly, your appeal on ground (a) and the section 78 appeal fail.

11. I have taken account of all the matters in the representations, but I am of the opinion that they do not outweigh the considerations that have led me to my decision.

FORMAL DECISIONS

12. For the above reasons, and in exercise of the powers transferred to me, I determine the appeals as follows:

The enforcement notice

I dismiss your appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under S177(5) of the amended Act.

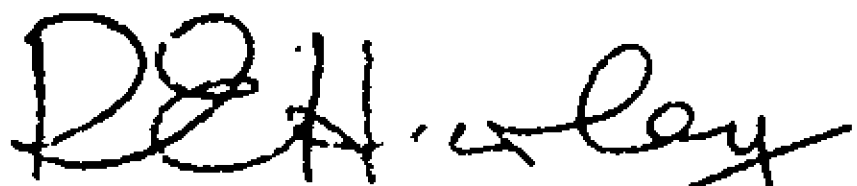
The section 78 appeal

I dismiss your appeal.

RIGHTS OF APPEAL AGAINST DECISIONS

13. This letter is issued as the determination of the appeals before me. Particulars of the rights of appeal against my decisions to the High Court are enclosed for those concerned.

Yours faithfully



R E Hurley CEng MICE MINT
Inspector

PNC.