

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

Other

Ref. No.

THE DISTRICT COUNCIL OF

IN THE COUNTY OF HERTFORD

To

C. Mawer Esq.,
33 Marlowes,
Hemel Hempstead,
Herts.Messrs. Wm. F. Johnson & Partners,
39a High Street,
Hemel Hempstead,
Herts.

..... Change of use of 1st and 2nd floors from

..... residential to offices,

at 33c Marlowes,

..... Hemel Hempstead, Herts.

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 Undated and received with sufficient particulars on 21st. June. 1982 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 proposal is contrary to Policy No 54 of the deposited Dacorum District Plan insomuch as it has not been proven to the satisfaction of the local planning authority that the proposed use needs to be located on this site.
2. The proposal is contrary to Policy No 56 of the deposited Dacorum District Plan inasmuch as it will result in the loss of residential accommodation.
3. The proposal is contrary to Policy No 19 of the deposited Dacorum District Plan which requires the provision of off-street car parking accommodation in accordance with standards adopted by the local planning authority.

Dated 29th day of July 19 82 ..

Signed



Designation

Chief Planning Officer

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.



**Department of the Environment and
Department of Transport**

Common Services

Room 1309 Tollgate House Houlton Street Bristol BS2

Telex 449321

Direct line

Switchboard

PLANNING DACORUM DIST		
G6DJ		
0272-21863	D.C.	
0272-218811		
Received 9am 28 APR 83		
Your reference Comments WFS/CK/1314		
Our reference T/APF/5252/A/82/12276/PH3		
Date		

4) TEAM 1
RETURN TO MBS
FOR COMMITTEE
REPORT

Messrs Wm F Johnson and Partners

39A High Street

HEMEL HEMPSTEAD

Herts

HP1 3AA

28 APR 1983

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9

APPEAL BY MR C J MAWER

APPLICATION NO:- 4/0719/82

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 change of use of the first and second floors from residential to offices at 33c, Marlowes, Hemel Hempstead. I have considered the written representations made by you and by the council. I inspected the site on Tuesday 22 March 1983.
2. From my inspection of the site and surroundings and the representations made, I am of the opinion that the decision in this case is primarily dependent upon whether the proposal would seriously conflict with the District Plan policies designed to secure the siting of offices generally within commercial areas and to preserve the housing stock.
3. The appeal premises are within a commercial area in which permission for office development may be granted under policy 53, but policy 54 has the effect of qualifying policy 53 by restricting the grant of consent for offices, to firms serving the local community or needing to be located in the county in the national or regional interest, where the proposal will not create pressure for additional housing. Policy 56 sets out that permission for office development proposals which would result in the loss of residential accommodation will normally be refused, and policy 61 extends this restriction to any change of use where residential accommodation would be lost. Policy 55 declares that where permission for office development is granted under the provisions of policy 54, it will normally be subject to a condition restricting occupation of the offices to firms operating in accordance with policy 54.
4. On the question of whether the office use might reasonably be taken to comply with the requirements of policy 54, the authority say, in essence, that the essential element of need to operate the intended office use in connection with the shop use on the ground floor has not been proven. In the absence of a clear indication of the kind of evidence the authority would regard as proof of need, it appears to me to be unreasonable to interpret and administer that policy as meaning that planning permission must be refused in this case, unless it is proved beyond question that the ground floor shop and/or the appellant's other shops could not be operated, or could not be profitably operated, without the proposed use for offices. I see no reason to doubt that office accommodation is necessary for the operation of the ground floor shop in the appeal premises and your client's other shops, and I accept that in the interests of efficiency and economy of his business, the use of this accommodation which is accessible from this shop, may reasonably be regarded as necessary. In consequence, I consider that no compelling planning objection on the basis of serious conflict with policies 53 and 54 arises.

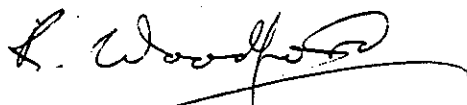
5. The residential accommodation includes 2 rooms, kitchen, bathroom and separate WC on the first floor, and 2 further rooms on the second floor. It is self-contained in that there is a separate access and staircase from the street, and another staircase leading from the first floor to ground floor level and a door to a small rear yard or gardenspace with a shed. In my opinion, although there is no garage or parking space on the property the accommodation represents a reasonably satisfactory dwelling. Most of the existing first and second floor space in the terrace of which your client's property is a part, is in residential use, and while its location may render it subject to traffic noise, I do not regard that as a serious disadvantage to residential use, particularly as the effects of traffic noise could be reduced by means of double glazing.

6. I am mindful of the government's policy of encouraging and assisting small businesses, and I have borne it in mind in considering the possibility of conflict with the District Plan policies 53 and 54. However, policy 56, which opposes the loss of residential accommodation, is also a policy firmly supported by the Secretary of State under current conditions of housing shortage, and since the appeal accommodation is capable of satisfactory use as a dwelling, I conclude that there is a compelling objection on grounds of loss of a dwelling, in conflict with policy 56 of the District Plan and that this appeal should fail.

7. I have considered the other points raised in the representations, but I find them of insufficient weight to affect my decision.

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

I am Gentlemen
Your obedient Servant



R WOODFORD DipTP MRTPI
Inspector