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21 JAN 1987

File Ref.
Ref. to CPO 211
CPO 211

GIN 2074

PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL

Council Ref: 4/0784/86E/GPB

Your reference

19111

Our reference

T/APP/A1910/C/86/2020/P6

Date

14 JAN 87

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Mr Pradip Pattni
Vitalia
The Common
Potten End
BERKHAMSTED
Herts

Ref.						Ack.	
C.P.O.	D.P.	D.C.	B.C.	Admin.	File		
Received						21 JAN 1987	
Comments							

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 88 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AND BUILDING AT VITALIA, THE COMMON, POTTEN END, BERKHAMSTED, HERTS

1. I have been appointed by the Secretary of State for the Environment to determine your appeal. It is against an enforcement notice issued by the Dacorum Borough Council concerning the above mentioned land and building. I have considered the written representations made by you and by the Council and also those made by other interested persons. I inspected the site on 25 November 1986.

2. a. The date of the notice is 16 May 1986.

b. The breach of planning control alleged in the notice is the change of use of the premises from residential use to use as an office.

c. The requirements of the notice are to cease the use of the premises as an office.

d. The period for compliance with the notice is 3 months.

e. The appeal was made on the grounds set out in Section 88(2)(b) and (c) of the 1971 Act as amended.

3. Your dwelling is situated amongst other residential development on the north side of the village green. It is sited behind Heather Cottage, with which it shares a common driveway to the road. Two of the ground floor rooms are used in connection with your business of marketing pharmaceutical products. The room you use as an office is fitted with a desk, filing cabinets, table and chairs, and micro computer and telex; there is also a small display cabinet with samples of the goods you supply. In the other and larger room there are 2 typing desks, both in use at the time of my visit, a photo-copier, and a row of filing cupboards along one wall. The remainder of the ground floor and the upper floor of the 2-storey 5 bedroomed house is in your residential use. At the rear of the house there is a small garden area which includes a largish wooden shed. Inside the shed are stored a number of leaflets and booklets, some samples and packaging materials and office equipments; a few domestic items are also kept there.

4. I consider first the legal issues pleaded. On ground (c) you contend that the alleged breach of planning control has not taken place and the question of whether any change alleged is material or not should be considered. The council submits that at an inspection of the premises 2 rooms were seen to be used solely for office work,

both rooms being equipped with computer terminals, desks and general office equipment, and an extensive filing system in one room. You do not dispute that the rooms are so furnished and used and I also observed their office content on my visit. In my opinion the notice gives a satisfactory description of the use which has taken place and which is alleged to be in breach of planning control. The appeal on ground (c) therefore fails.

5. On ground (b) you maintain that your property continues to be used as a residence by yourself and your family. The use of less than 10% of the total floor area for clerical use by you wife and yourself for your profession does not amount to development. An office activity, by normal definition, is not carried on; there are no employees apart from a part-time typist. There have been no increased vehicle movements and no disturbance from noise, smoke or other nuisance. Externally the appearance of the building has not changed. Over 95% of the company's activities, including all physical handling of goods, is carried on in a warehouse at Romford. There has been no breach of planning control. The council submits that the office use is significant in scale and alters the overall character of the house. The 2 rooms are used solely for office work amounting to 32 sq m floor space of the 148 sq m ground floor area of the house excluding the garage/utility room.

6. I take the view that the office use being carried on at Vitalia is not on such a small scale that it can be regarded as de minimis. Two of the three reception rooms on the ground floor are equipped and used entirely for your business purposes, and ancillary storage space is provided in the outside shed; and you employ staff to work in the house. In my opinion as a matter of fact and degree the office use being carried on is significant in planning terms and a mixed use of the property is being made for residential and office purposes. When the additional office use commenced a material change of use of the premises took place involving development for which planning permission was requested. Failure to obtain permission has led to a breach of planning control and the appeal on ground (b) fails. I propose to correct the notice to reflect more aptly the change of use which has taken place and am satisfied that no prejudice is caused thereby. Nor do I consider that my conclusion under ground (c) is invalidated by such correction.

7. With regard to the planning merits you represent that the business activity causes no disturbance to any other parts of the premises or to neighbours; clerical work only is conducted, using the telephone and telex. The business is not sufficiently large to warrant separate offices. It is necessary to have these facilities at home to establish and maintain export markets to Europe, Canada and the Far East involving communication at all hours. Nine previously unemployed people are employed by the company, working as sales representatives from their own homes. You recognise that future expansion of your business may involve additional staff necessitating your moving to suitable business premises. You ask for a 3-year period of use at Vitalia with restricted use of the house.

8. The council is concerned that the site lies within the Metropolitan Green Belt and that the office use is unacceptable within both the green belt policy and the district plan policy which seeks to restrict further office development to certain town centres. And because of the type of activity and resultant increased movements to and from the site the amenities of adjacent residents would be adversely affected.

9. Representations from local residents and from the Parish Council also record a number of objections to the continuance of the office use. But I have not taken into account those which, although they may carry legal significance, are not of planning relevance.

10. In the light of the submissions made and from my observations of the site and the surrounding area, the issue on which I assess the appeal is the effect of the

office use on the residential environment of this built-up part of the village. I saw on my visit that Vitalia is in a backland position behind Heather Cottage with other dwellings surrounding the property. In such a location the introduction of the office use is out-of-keeping with the residential character of the neighbourhood, and I appreciate the fears expressed that such a non-conforming use could result in disturbance affecting the people living close by in the enjoyment of their homes. But it was also my impression that the office use is of a small scale and limited nature, and could be controlled sufficiently so as not to be unacceptable. I noted that Heather Cottage is set some distance from the shared driveway and that its main windows do not face in that direction; and that both it and Pond Cottage are well screened from the access route. Provided that your office usage is confined to clerical work by your wife and yourself with some part-time secretarial help, and that only certain parts of the house are used, I do not think that the residential amenities of neighbours would be adversely affected. Nor do I consider that such limited use of the premises for a short period would prejudice the council's policies. Bearing in mind also the emphasis given to encouraging small businesses in recent Government circulars, in particular Circular 2/86, I do not find there is sufficient reason to withhold planning consent. Your appeal will therefore be allowed and conditional planning permission granted.

11. I have taken into account all the other matters raised in the written representations and am of the opinion they do not outweigh the considerations on which I have based my decision.

FORMAL DECISION

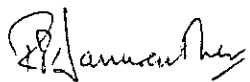
12. For the above reasons and in exercise of the powers transferred to me I hereby allow your appeal and direct that the enforcement notice be corrected in the recital by adding after the words "residential use" the words "to a mixed use for residential and office purposes". Subject to this correction I hereby direct that the enforcement notice be quashed and grant a personal planning permission for a limited period on the application deemed to have been made under Section 88B(3) of the amended 1971 Act for the mixed use of Vitalia, The Common, Potten End, Berkhamsted for residential and office purposes subject to the following conditions:

1. the office use hereby permitted shall be carried on only by Mr Pradip Pattni and shall be for a limited period being the period of 3 years from the date of this letter or the period during which the premises are occupied by Mr Pradip Pattni whichever is the shorter.
2. When the premises cease to be occupied by Mr Pradip Pattni or at the end of the period of 3 years, whichever shall first occur, the office use hereby permitted shall cease and all materials and equipment brought onto the premises in connection with the use shall be removed.
3. Not more than one person who is not resident in the premises shall be employed in the permitted office use.
4. The office use permitted shall not be carried on except in the 2 rooms edged red in the plan attached to the enforcement notice, nor shall any stores or equipment ancillary to the office use be kept elsewhere in the premises.
5. No merchandise shall be stored or transshipped on the site.

13. This decision does not convey any approval or consent required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971.

14. This letter is issued as the determination of the appeal before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Sir
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'R P Dannreuther', with a stylized, cursive script.

R P DANNREUTHER
Inspector

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