

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

LA



DACORUM BOROUGH COUNCIL

To Cornerstatic
24 Bruton Street
Mayfair
London
W1X 7DA

Robert Davies, John West Associates
Richmond Terrace
26-30 Kingston Road
Staines
Middx

Use of shop unit 1 for the sale of food or drink for
consumption on the premises or of hot food for consumption
off the premises
at 160 Marlowes, 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 11.5.89 and received with sufficient particulars on 12.5.89 and shown on the plan(s) accompanying such application.

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

The site is within a designated primary shopping frontage, wherein a change of use from shop to non-shop use will normally be refused. Provision exists within Policy 90 of the Dacorum District Plan for the proposed use to be located elsewhere within the commercial area, which would not result in the loss of designated primary shopping frontage.

Dated 29th day of June 19 89

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.



Planning Inspectorate

Department of the Environment

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PLANNING DEPARTMENT
DACORUM BOROUGH COUNCIL

Robert Davies John West Associates

Debmarc House

193 London Road

STAINES

Middx TW18 4HR

ack.

Your Reference:

MGR/1813

Our Reference:

T/APP/A1910/A/89/138386/P3

Date:

6 APR 1990

- 5 APR 90

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY CORNERSTATIC LTD. APPLICATION NO :- 4/0855/89.

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the change of use from retail shop unit to Class A3 at Unit 1, 160 Marlowes, Hemel Hempstead. I have considered the written representations made by you and by the Council. I inspected the site on Monday 26 February 1990.
2. The appeal premises are a large unit which forms part of the redevelopment of the former Post Office site located on the west side of Marlowes which is the main spine road that runs through the Hemel Hempstead shopping centre. The site is located on the northern side of the shopping area close to the open market area.
3. From my inspection of the appeal site and surroundings and from the representations made, I am of the opinion that the main issues in this appeal are whether the proposal would unduly harm the appearance, character and retail function of the Hemel Hempstead shopping centre.
4. The site lies within a primary shopping frontage defined in Policy 90 of the Dacorum District Plan, operative from January 1984, wherein the Council seeks to prevent changes of use from shop to non-shop use. This policy identifies areas in the town centre where Class A2 and A3 uses are acceptable. Policy 91 of this plan seeks to ensure that the design and external appearance of shops and shop fronts accord with their guidelines and that non-shop uses maintain a shop window display at ground floor level.
5. The Council consider that the proposal would be an unacceptable breach of their shopping policies, particularly as it would abut the first of three "non-shop" uses - the Post Office, Gas Board and the Electricity Board. The report to the Committee referred to the possibility that with the advent of major developments at the south end of Marlowes this particular area of the shopping centre may become less sensitive to change.
6. On behalf of the appellant you detail the uses of the premises in the surrounding area and submit a Goad Plan. You refer to National Policies and Local Planning Policies and contend that the completion of the Marlowes Centre coupled with the pedestrianisation of the southern sector of Marlowes will shift the primary shopping frontage to the south and reduce the prominence of



this street block. You maintain that the Post Office is a Class A1 use and the Gas Board and Electricity Board premises have full window displays and operate as retail outlets.

7. I share your view that a Post Office is defined as a Class A1 use in the Use Classes Order 1987. The Post Office next door to the appeal premises has an independent Post Shop with its own window display of birthday and other cards. Accordingly, I find that the block of sixteen units from The Square to Bridge Street has eleven in use as retail shops plus the two Board Showrooms. As I saw at my site inspection the Gas Board and Electricity Board premises are active enterprises attracting many customers and providing typical retail shop window displays. In my view they are equivalent to a retail shop and form an attractive part of this frontage. Although the appeal premises are large and occupy a prominent position I do not consider that the proposal would create an unacceptable length of dead frontage which would cause undue harm to the character and appearance of this part of the shopping centre.

8. The Hemel Hempstead shopping centre is an important one extending over a large area providing a wide range of goods and services from many outlets including a number of magnet stores such as Marks and Spencers & Woolworths. Although a Class A3 use would be unlikely to attract as many people to the town centre as a Class A1 use at times when it would stimulate passing trade for the benefit of other premises it would nevertheless provide a very useful service for the many people visiting the town centre. Although the appeal site is located in a primary shopping frontage I have come to the view that the proposal would not cause undue harm to the viability of this large shopping centre.

9. The Council has not submitted any conditions for my consideration. Although Policy 91 normally requires a shop window display at ground floor level I do not consider that it is necessary to impose a condition to ensure this for a Class A3 use.

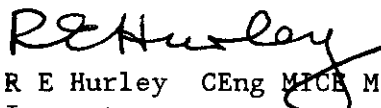
10. I have taken account of all the other matters in the representations but I am of the opinion that they do not outweigh the considerations that have led me to my decision.

11. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use from retail shop unit to Class A3 at Unit 1, 160 Marlowes, Hemel Hempstead in accordance with the terms of the application No. 4/0855/89, dated 11 May 1989, and the plans submitted therewith, subject to the condition that the development hereby permitted shall be begun on or before five years from the date of this letter.

12. The developer's attention is also drawn to the enclosed Note relating to the requirements of the Buildings (Disabled People) Regulations 1987.

13. 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 Gentlemen
Your obedient Servant


R E Hurley CEng MICE MIHT
Inspector