



# The Planning Inspectorate

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Your Reference: JTB/BMC

Our Reference:  
T/APP/A1910/A/94/246951/P8

Date: 25 APR 1995

Dear Sirs

TOWN AND COUNTRY PLANNING ACT 1990  
SECTION 78 AND SCHEDULE 6  
APPEAL BY MRS A CIBRAN  
APPLICATION NUMBER: 4/0919/94

PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL			
Ref.			
Dep	ICP	Ref	File
Received		26 APR 1995	
Comments			

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 change of use from Class A1 to fish and chip shop (Class A3) at 11c Hempstead Road, Kings Langley, Hertfordshire. I have considered the written representations made by you and by the Council and also those made by the Rt Hon Richard Page MP, the Parish Council and other interested persons including petitions both in favour and against the proposal. I have also considered those representations made directly by interested persons to the Council which have been forwarded to me. I inspected the site on 23 March 1995.
2. The property comprises a ground floor lock-up shop, being one of a modern parade of six shop units with flats above. The residential accommodation is approached from the rear via a staircase and wide cat-walk. The premises are currently vacant but were previously used as a greengrocery. Included within the parade are a launderette and hairdressers. The application includes the use of two car parking spaces and two of the garages within the rear service area, with access via Common Lane adjacent to a lay-by for some five cars. To the front of the premises is a lay-by suitable for approximately six or seven vehicles.
3. From my inspection of the appeal site and surrounding area and consideration of the representations, I am of the opinion that the principal issue in this case is whether the proposed change of use would be likely to have an unacceptable effect upon the amenities of nearby residents or lead to an increase in on-street parking to the detriment of highway safety.
4. Policy 18 of the adopted Dacorum District Plan (1984) requires that new development should pay particular regard to a number of matters including privacy and amenity, and that in the consideration of applications the District Council will have regard to the physical characteristics of the site, the location and design of adjacent development, traffic considerations and the creation of a satisfactory environment. Policy 19 requires all proposals to include provision for car parking based on the Council's adopted guidelines.



5. The Dacorum Borough Local Plan was placed on Deposit in July 1991, was the subject of a Local Plan Inquiry in 1992 and was subsequently modified. However, the Plan has been further modified and has recently been the subject of a second Public Local Inquiry. The Plan is therefore well advanced towards statutory adoption and it is necessary for me to accord its policies considerable weight in the determination of this appeal. Policy 7 refers to the creation of land use divisions in towns and large villages, which includes Kings Langley. Within residential areas the introduction or intensification of incompatible non-residential uses will be resisted, whilst in town centres and local centres a mix of uses will be permitted including housing, shopping and catering establishments. Policy 8 entitled "Quality of Development" states, inter-alia, that development will not be permitted unless it avoids harm to the surrounding neighbourhood and adjoining properties through, for example, noise, disturbance or pollution and provides sufficient parking and space for servicing.

6. Policy 10 sets out environmental guidelines, whilst Policy 34 refers to uses in town centres and local centres. Kings Langley is included within the list of local centres wherein a broad range of uses is encouraged. Shopping will be the prime component in each centre but this should not prevent provision for other appropriate uses which would normally include catering establishments, residential and indoor leisure. The supporting text to this policy states that such centres provide a host of services and employment opportunities as well as homes. Such uses help support the retail function and allow people to use the centre for a combination of purposes. The reasoning to this policy also refers to the difference between town centres and local centres. Policy 40 deals specifically with shopping areas in local centres. It provides a detailed list of those properties covered by the policy, which includes the subject shopping parade. The policy itself relates to the loss of retail provision and is not, therefore, directly relevant to the issues which I have identified above, although set out in the grounds of refusal. The background to the policy, however, states that uses appropriate to a local centre shopping area include A3 - food and drink (catering establishments).

7. The recent improvements in the highway network locally have involved the downgrading of Hempstead Road/High Street from the A41 trunk road to the A4251. Although still a classified highway, it is likely that the effects of traffic noise, particularly in the evenings, in the vicinity of the appeal site will be less than previously. The shops in the parade are such that they are unlikely to remain open during the evening. The parade is separated from the principal commercial centre of Kings Langley to the south by the Club and by Vicarage Lane. There are residential properties closely abutting the parade on three sides with flats above each of the six shops, whose living room and second bedroom windows face directly onto the forecourt and lay-by in front of the parade. The existence of the lay-bys in front of the shops and to the side in Common Lane and the location of the parade at the northern end of the centre makes it probable that persons visiting the proposed fish and chip shop would seek to park in one of these locations or at the rear of the premises where there is private car parking. It is also likely that vehicles visiting the premises may wish to turn or to use Common Lane for access purposes.

8. I have noted the substantial petition in favour of the provision of a fish and chip shop in Kings Langley, together with the village appraisal undertaken in 1991 which indicated that a fish and chip shop was the most favoured facility requested by the respondents. However, whilst those desires are a material consideration in my determination of this appeal it is necessary for me to have regard also to the likely effects of such a proposal upon the amenities of nearby residents. In this respect, I am particularly concerned as to the increased noise and disturbance arising from persons visiting the premises by car. Whilst I accept that some patrons will arrive on foot, given the somewhat peripheral location of the parade to the north of the village centre, it seems to me that

many will choose to arrive by car. The Report to Committee refers to the possibility of restricting the hours of operation to 2200 hours, although your Client wishes to remain open for an hour longer, such that activities associated with the use including the sound of human voices, the revving of car engines and the slamming of car doors could well continue into the late evening, causing loss of amenity to nearby residents.

9. The parade in which the appeal site is located is specifically listed in Policy 14 of the emerging Local Plan as part of the Kings Langley local centre. Its isolation from the more commercial centre to the south, however, where there is available public car parking and other evening activities including A3 uses, sets it apart from that area and in the evenings it is likely to be more akin to a residential locality. In arriving at this conclusion I have taken into account the existence of the Club next door, whose private car park is screened from much of the surrounding area by a high wall and by the Club building itself. I have also noted that the car parking provision for the Club is limited, such that many visitors to it may well park in the lay-bys close to the appeal site. Any disturbance arising from this well-established use is, however, likely to differ from that associated with the take-away facility proposed.

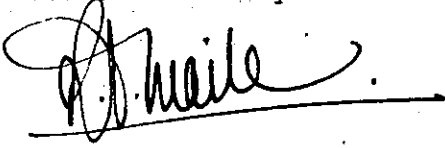
10. I am also concerned as to the likely effects of fumes from the kitchen and the servery causing nuisance to the flats above given their close proximity and the difficulties of an extractor unit being positioned which would enable fumes to be taken above the level of the flats themselves. Although I am aware of the possibility of an efficient extractor being fitted to treat the fumes arising from cooking, the literature provided to me does not claim to totally eliminate smells which could therefore cause further nuisance to the residents of the flats above. In this respect I have noted that their principal bedrooms face the rear, whilst additionally it would appear that the very wide cat-walk which provides access to the flats and is located just above the position identified for the extractor is used as an area for sitting out by some of the residents in the evenings. Furthermore, it is likely that fumes from the premises would escape from the front of the shop, particularly during the summer months, and would be wafted into the living room and second bedroom windows of the flats above.

11. On the second issue, the car parking requirements based upon a floorspace of 86 m<sup>2</sup> would be three spaces, together with an additional two spaces for the proposed four employees. The operational car parking shortfall is therefore likely to be only one space. Moreover, PPG 13 recommends that a flexible approach to the provision of car parking should be adopted to ensure that parking requirements, in general, are kept to the operational minimum. Given the existence of the lay-bys in close proximity to the property and the de-trunking of Hempstead Road which enables parking within the street after 1800 hours, I consider there to be adequate on-street car parking nearby to permit the standards to be relaxed in this instance. My conclusions upon this issue, however, are insufficient to override my principal concerns expressed above regarding the potential disturbance to nearby residents arising from the proposed change of use, together with my concerns as to the effectiveness of the extraction unit to deal adequately with the fumes and smell arising from such a use as that proposed.

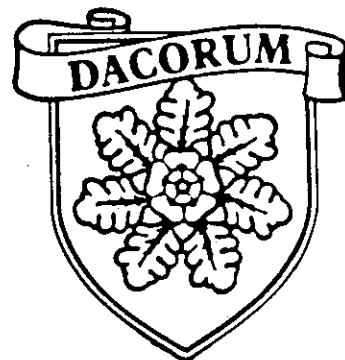
12. I have had regard to the other matters raised in the representations, but none is of sufficient strength to outweigh the considerations which have led to my decision that consent should not be granted.

13. For the above reasons, and in exercise of the powers transferred to me, R.J. hereby dismiss this appeal.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'R J Maile', is written over a horizontal line.

R J Maile BSc FRICS  
Inspector



TOWN AND COUNTRY PLANNING ACT 1990

DACORUM BOROUGH COUNCIL

Application Ref No. 4/0919/94

Mrs A Cibran  
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Kings Langley  
Herts  
WD4 8DD

Proffitt & Gough  
37 St Albans Road  
Watford  
Herts  
WD1 1SH

DEVELOPMENT ADDRESS AND DESCRIPTION  
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11C Hempstead Road, Kings Langley, Herts

CHANGE OF USE FROM SHOP TO FISH AND CHIP SHOP (A3)

Your application for *full planning permission* dated 08.07.1994 and received on 11.07.1994 has been **REFUSED**, for the reasons set out on the attached sheet(s).

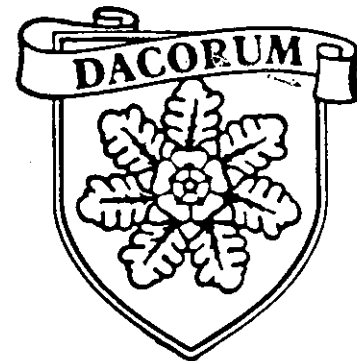
Director of Planning

Date of Decision: 08.09.1994

(ENC Reasons and Notes)

REASONS FOR REFUSAL  
OF APPLICATION: 4/0919/94

Date of Decision: 08.09.1994



1. The proposed use is likely to generate further parking difficulties which would be a potential hazard on adjacent highways that presently suffer from on-street parking problems.
2. The proposed change of use would, by reason of its nature, prove detrimental to amenities enjoyed by surrounding properties and, in particular, the first floor residential accommodation.