

Department of the Environment
Caxton House 7-11 Mill Street London SW1H 9SZ

Telephone 01-234 5500 ext. 634

Messrs Kelly & Nichols
Solicitors
6 Station Road
WATFORD

Your reference
P3/23/4074

Our reference

T/APP/232/N/74/10892/86
Date

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 76 AND SCHEDULE 9
APPEAL BY JOHN SALAMONIOS
APPLICATION NO. 931/74D

1. I refer to this appeal, which I have been invited to determine, against the refusal of the Macclesfield Council to give notice of their decision to the appellant during the prescribed period on an application for planning permission for the erection of a condition in an existing planning consent (No. 45/73) under 19/73/10892/86 regarding the occupation of part of the first floor premises at Abbey House Limited, 14-16, Broad Road, Macclesfield, Cheshire. I held a local inquiry into the appeal on 16 July 1975.

2. The condition in dispute is No. 6 which provides that

"The shopfront and office accommodation shall be used only in accordance with the remainder of the business to be carried out in the premises as a whole permitted."

3. The application is for the modification of this condition to permit the use of the premises of approximately 1,000 sq ft of first floor office space as a place of business for an independent company.

4. As a result of inspection of the site and surrounding area and from representations made at the inquiry, it appears to me that the Council's refusal is unreasonable in that the granting of the condition would have an adverse effect on the development of office development in Macclesfield.

5. On behalf of your client, it was stated that 10 of 11 directors (one of whom was under the direction of the Macclesfield Council) had been a very successful local enterprise and it had been found necessary, as the high standard of workmanship employed attracted other work over a period of about 25 years, to have to change premises from time to time; the same method of operation, including working directors had however been retained and the company had moved on to a new site.

6. The new premises in Macclesfield were acquired in 1972 and the ground floor comprising motor car showroom, garage and repair shop, large display windows with shelving storage, and office facilities, total cost £22,000, on it are now largely complete and in operation. The franchise is held for a 10-year period from incorporation. There are 100 staff and 100 vehicles.

7. However, by reason of world recession, oil prices and inflation, the motor trade has met, with serious difficulties, and your client's plans to complete the 5,000 sq ft of the first floor of the works have been deferred because of cost and the extremely high and uncertain rate of interest required on it. The building has 0.7 acres of ground at the rear of the building intended as a car park area, has been cleared and hardened for use. The effect of these 2 deferrals in time, and the office conditions inside the building suffer from lack of space, and outside there is some congestion of vehicles because the full planned parking area is not yet available.

8. Your client's proposed lot off 2nd Street, the 1st floor so as to provide entrance to the building from the street as planned, and from the present use of the building for the resurgence of the local trade area and the full use of the space required for the business, is a property of reasonable location and therefore be acceptable.

9. I note furthermore that your client's personal financial situation is not disclosed in this case, and while I am perfectly amenable to discussions to assist the client to a locally based organization, I consider that the failure to furnish a financial statement to the local organization is a serious matter. I am not prepared to accept and grant the local organization's request for a financial statement which would prove difficult, if not impossible, to obtain.

10. On the other hand, the local planning committee is mindful of the fact that the local government policy for the county set out in the local planning committee's policy is its duty to maintain which to be in such that any action taken shall be of a type which is of a kind that will not be harmful to the general interest.

47c. There is no wish to use the title of agent then fully covered elsewhere, and in the short term prior to the re-orientation of the title for the purpose of the fact that the local authority would be a matter of application for a local independent office. The fact is that it is necessary to have the application submitted by the applicant. They have tried to have the application.

12. I understand this reluctance, but I am of the opinion that the use of the 2000 is in question by an independent firm, and the lead in my investigation is in the hands of one of the firms beyond the jurisdiction of the Federal Bureau of Investigation. I am sure that if any additional lead or information is developed for which the 2000 is designed would be added. As I have said, however, I am not sure of this account.

13. Nor, because it would be a temporary relief of a financial crisis, would a short term exceptional period of monetary expansion lead to the harmful effects on the community which the policy is designed to prevent.

[illegible]

45. I have been informed that the order was refused at the inquiry but not of the opinion that it should be issued in the circumstances and that has led me to my decision.

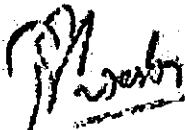
16. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and discharge Condition No. 6 of the Planning Consent 03/730 dated 19 March 1973 in accordance with the terms of the application 931/740 dated 31 July 1974 and replace it with the following conditions:

"The unrestricted use of the office accommodation, the subject of this appeal, shall commence within 6 months but cease within 7 years from the date of this letter at which time the terms of the original Condition 6 shall be reimposed. The showroom and other office accommodation in the building shall continue to be used only in association with the remainder of the business permitted in the Planning Consent reference 03/730 dated 19 March 1973."

17. This letter does not convey any approval or consent which may be required under any enactment, bylaw, order or regulation other than section 2 of the Town and Country Planning Act 1971.

I am, Gentlemen,

Your obedient Servant



P. G. LOASBY
Inspector

Appeal by J. Malamaternios against the non-determination by Dacorum District Council as an applicant for planning permission for the modification of condition No. 6 on ~~the~~ a planning permission dated 19th March 1973 (reference 93/7310) regarding the use of first floor offices at Abbey Motors, Redburn Road Hemel Hempstead

Dept. of environment ref:- APP/S252/A/44/10892(10)

Local planning authority ref:- W/931/740.

① The planning ^{Application} Decision

An application from Abbey Motors for permission to use approximately 2,000 square feet of first floor office accommodation for an independent office use, was received by the Local Planning Authority, Dacorum District Council on 2nd August 1974.

The application was refused a order to modify a condition imposed on a previous planning permission.

The statutory time period ~~expired on 1st October 1974~~ to determine the application expired on 1st October 1974, by which time no decision had been issued by Dacorum District Council.

② Development Plans

The appeal site is within an area allocated ^{for} primarily for industrial purposes on The County Development Plan and this allocation remains unchanged in 'Hertfordshire 1981' a non-statutory review adopted by the Local Planning Authority in 1972.

PUBLIC HEALTH ACTS, 1936 and 1961
THE BUILDING REGULATIONS, 1965

**Notice of refusal of application for dispensation from or
relaxation of the Regulations**

To: ⁽¹⁾

of

WHEREAS on the _____ day of _____, 19____, you applied under section 6 of the Act of 1961 for a direction dispensing with or relaxing the requirements of the Regulations in connection with the proposed building or works described as

and situate at

NOW THEREFORE the ⁽²⁾

HEREBY GIVE YOU NOTICE that, pursuant to the powers conferred on them by Building Regulation A13, they have **REFUSED** the said application.

ALSO TAKE NOTICE that you may by notice in writing appeal to the Minister of Public Building and Works within one month from the date on which this notice is served on you. Any such notice of appeal must set out the grounds of appeal, and a copy of the notice must be sent to the local authority. If the Minister allows the appeal he will give such directions for dispensing with or relaxing the Building Regulations as may be appropriate (*Public Health Act, 1961, s. 7*).

DATED this

day of

, 19____.

Signed.....

[Town] Clerk [of the Council].

Notes.

(1) Name and Address of applicant.

(2) Name of local authority.

**PUBLIC HEALTH ACTS, 1936 and 1961
THE BUILDING REGULATIONS, 1965**

**Notice of refusal of application for dispensation from or
relaxation of the Regulations**

To: ⁽¹⁾

of

WHEREAS on the _____ day of _____, 19____, you applied under section 6 of the Act of 1961 for a direction dispensing with or relaxing the requirements of the Regulations in connection with the proposed building or works described as

and situate at

NOW THEREFORE the ⁽²⁾

HEREBY GIVE YOU NOTICE that, pursuant to the powers conferred on them by Building Regulation A13, they have **REFUSED** the said application.

ALSO TAKE NOTICE that you may by notice in writing appeal to the Minister of Public Building and Works within one month from the date on which this notice is served on you. Any such notice of appeal must set out the grounds of appeal, and a copy of the notice must be sent to the local authority. If the Minister allows the appeal he will give such directions for dispensing with or relaxing the Building Regulations as may be appropriate (*Public Health Act, 1961, s. 7*).

DATED this

day of

, 19____.

Signed.....

[Town] Clerk [of the Council].

Notes.

(1) Name and Address of applicant.

(2) Name of local authority.

The Grounds of Appeal.

The appellant is appealing against ~~the~~ non determination
of his application 931/740.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OFDACORUM.....

IN THE COUNTY OF HERTFORD

To J.Malamatenios trading as
Abbey Motors Ltd.,
Redbourn Road,
Hemel Hempstead.Agent: B.Francis Esq.,
Poulter & Francis,
57 Marlowes,
Hemel Hempstead, Herts.

Modification of Condition No.6 on Plan HB93/73D (Letting

 ...of First Floor offices) Part of premises
 at .Abbey Motors, Redbourn Road, 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 dated31st July, 1974..... and received with sufficient particulars on2nd August, 1974..... and shown on the plan(s) accompanying such application..

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

The policy of the Local Planning Authority is that all applications for office development will be dealt with on their merits, having regard to the local needs for employment and in the light of Government Policy and, in addition, permission for new offices, extensions and changes of use will, save in exceptional circumstances be limited to offices serving the local community in Hertfordshire and offices required as essential ancillaries to industry already established in the area. No named occupier is given in this instance.

Dated .twenty-fourth..... day ofOctober.....19 74...

Signed.....*A. H. Lewis*.....
 Director of Technical
 Designation ...Services.....

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
Caxton House Tothill Street London SW1H 9LZ

Telephone 01-834 8540 ext 634

Messrs Kelly & Nichols
Solicitors
6 Station Road
WATFORD

Your reference
EE/RB/4074
Our reference
T/APP/5252/A/74/10892/G6
Date

18 AUG. 1975

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY JOHN MALAMATENIOS
APPLICATION NO. 931/74D

1. I refer to this appeal, which I have been appointed to determine, against the failure of the Dacorum District Council to give notice of their decision within the prescribed period on an application for planning permission for the modification of a condition in an existing planning consent (Reference 93/73D dated 19 March 1973) regarding the occupation of part of the first floor premises at Abbey Motors Limited, Redbourn Road, Hemel Hempstead, Hertfordshire. I held a local inquiry into the appeal on 16 July 1975.

2. The condition in dispute is No. 6 which provides that

"The showroom and office accommodation shall be used only in association with the remainder of the business to be carried out in the development hereby permitted."

3. The application is for the modification of this condition so as to permit the letting of approximately 2,000 sq ft of first floor office accommodation for use as offices by an independent company.

4. From my inspection of the site and surroundings and from representations made at the inquiry it appears to me that the determining issue in this case is the effect that the waiving of the condition would have on measures being taken for the control of office development in Hertfordshire.

5. On behalf of your client it was stated that Abbey Motors (Hemel Hempstead) Limited, under the direction of Mr Malamatenios, had been a vigorously expanding local enterprise and it had been found necessary, as the high standard of workmanship employed attracted extra work over a period of about 20 years, to move to larger premises from time to time; the same nucleus of skilled workmen, including working directors had however been retained and the company had proved on as a team.

6. The new premises in Redbourn Road were approved in 1973 and the ground floor comprising motor car showroom, servicing and repair workshops, body repair workshops, with ancillary storage, and office facilities, in all about 22,000 sq ft are now largely complete and in business. Franchise is held for British Leyland Motor Corporation Rover, Triumph and Austin vehicles.

7. However, by reason of world recession, oil prices and inflation, the motor trade has met, with serious difficulties, and your client's plans to complete the 5,000 sq ft of the first floor of the works have been deferred because of cost and the extremely high and unforeseen rate payment required on its use. Neither has 0.7 acres of ground at the rear of the building intended as a car park area been cleared and hardened for use. The effect of these 2 deferments is that amenity and office conditions inside the building suffer from lack of space, and outside there is some congestion of vehicles because the full planned parking area is not yet available.

8. Your client's proposal is to let off 2,000 of the 5,000 sq ft available on the first floor so as to provide finance on a temporary basis to complete the development as planned, and ease the present working conditions and congestion pending the resurgence of the motor trade when the full amount of office space will again be required for the business. A temporary permission of reasonable duration would therefore be acceptable to him.

9. I note furthermore that your client does not question the established county policy in this case, and while being perfectly amenable to limitations in use of the space to a locally based organisation considers that the naming of such a firm prior to acceptance and granting of planning permission is an unduly burdensome condition which would prove difficult, if not impossible, to operate.

10. On the other hand the local planning authority, mindful of the office development policy for the county set out in Hertfordshire 1981 which it is their duty to maintain wish to be assured that any exceptions made on a temporary basis are of a kind that will not be harmful to the general interest.

11. There is no wish to see the building less than fully occupied however, and in the short term prior to the more intensive use of the site for its intended purpose I note that the local authority would consider an application for an appropriate local independent office user. However in default of a named occupier being submitted by the appellant they have found it necessary to oppose the application.

12. I understand this reluctance, but I am of the opinion that use of the 2,000 sq ft in question by an independent firm would not lead to any significant intensification of use of the site beyond the scale for which planning consent is already enjoyed, since few if any additional staff or vehicles above the level for which the site is designed would be added. No damage would therefore result on this account.

13. Nor, because it would be a temporary expedient to meet a special case, would a short term exceptional permission undermine county policy or lead to the harmful effects on the community which the policy is designed to prevent.

14. I have considered whether it would be reasonable for your client to nominate the prospective tenant prior to receiving planning permission but it seems to me that such a procedure, with all the work involved and its potential delays and difficulties, cannot be justified for the temporary period of relaxation that I envisage. Nor in this short interval before the Abbey works expand to their fully designed function do I consider it necessary that the restriction and complication of imposing a local user condition is justified.

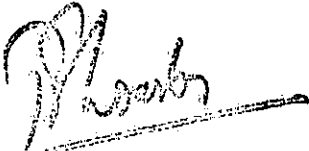
15. I have taken into account all the other matters raised at the inquiry but am of the opinion that they do not outweigh the considerations that have led me to my decision.

16. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and discharged Condition No.6 of the Planning Consent 93/73D dated 19 March 1973 in accordance with the terms of the application 931/74D dated 31 July 1974 and replace it with the following condition:-

"The unrestricted use of the office accommodation, the subject of this appeal, shall commence within 6 months but cease within 7 years from the date of this letter at which time the terms of the original Condition 6 shall be reimposed. The showroom and other office accommodation in the building shall continue to be used only in association with the remainder of the business permitted in the Planning Consent reference 93/73D dated 19 March 1973.

17. 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 Gentleman
Your obedient Servant



P. G. LOASBY
Inspector