

## TOWN &amp; COUNTRY PLANNING ACTS, 1971 and 1972

## DACORUM BOROUGH COUNCIL

To Mr A Quadir  
269 New Bedford Road  
Luton

Allan S Tomkins MIAS  
38 Rothesay Road  
Luton

Change of use of retail to restaurant and take-away

at 33A 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 ..... 9th August 1985 ..... and received with sufficient particulars on ..... 13th August 1985 ..... 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 proposed development would result in the undesirable loss of a retail unit within a Principal Shopping Area and would, if permitted, prejudice the continued viability of other retail outlets in this parade.
- (2) There is no provision for vehicle parking within the site to meet the standards adopted by the local planning authority.

Dated ..... 26th ..... day of ... September ..... 19 85...

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.

DP

# Department of the Environment and Department of Transport

Common Services

Room 1309

Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 865

Switchboard 0272-218811

GTN 2074


**CHIEF EXECUTIVE  
OFFICER**
**30 JAN 1986**

 File Ref. ....  
 Refer to 290 20/1  
 Closed .....

A Larkman Esq  
 Allan S Tomkins MIAS  
 38 Rothersey Road  
 LUTON  
 Bedfordshire  
 LU1 1QZ

*1/MB*  
*2/ES*  
*3/JOHNSON*  
*4/TEAMT.*

Your reference

AQHEM-13

PLANNING DEPARTMENT

Our reference

DACORUM DISTRICT COUNCIL

T/APP/A1910/A/85/039751/P7

Ref.	Date	Ack.			
	29 JAN 86				
C.P.O.	D.P.	T.C.	R.C.	Admin.	File
Received		30 JAN 86			
Comments					

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9  
 APPEAL BY A QUADIR ESQ  
 APPLICATION NO: 4/1036/85

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 to form restaurant and take away to ground floor only at 33a Marlows, Hemel Hempstead. I have considered the written representations made by you, by the Council and also those made by interested persons. I inspected the site on Monday 13 January 1986.

2. Your client's site, on the east side of 'Marlows', is the most southerly of a terrace of similar properties to the north of the main shopping area of Hemel Hempstead. It is occupied on the ground floor by a shop and on 2 other floors by residential flats with separate access arrangements. The building immediately to the south provides accommodation for elderly people and the access drive adjacent to the appeal site is suitably wide. The other ground floor properties, in the terrace to the north, are in mixed retail and commercial use. The busy single width road is relatively narrow and parking is prohibited on both sides at the appeal site. The limited waiting areas to the north and south were in constant use at the time of my visit in early afternoon. The whole of the terrace is included within the 'commercial area' in the Local Plan and is regarded by the Council as an important shopping area in which restrictive policies apply.

3. In the light of these policies, from my consideration of the written representations received and from my inspection of the site and its surroundings, I am of the opinion that the main issues in this case are firstly, whether the change of use proposed would be likely to be detrimental to the viability and vitality of this part of the shopping town centre and secondly, whether the requirement for off street parking is justified.

4. In setting out the case for your client's proposal, you suggest that apart from the appeal site. 9 units in the terrace are in retail use out of a total of 19. You argue that in a period when small retail shops are closing, the proposed use of this site, in a location you describe as outside the Principal Shopping Area, would be an economic development and would provide a valuable and convenient service for the offices and college in the neighbourhood.

5. You regard any private parking requirement as unnecessary and unreasonable, since lunchtime customers would be on foot and public parking is available nearby during evenings.

6. At my site visit I took particular note of the proportion of units in the terrace already in non retail use and the parking and traffic difficulties of the area. It seems to me that if a shopping area is to retain its vitality and its ability to serve the local population, the proportion of non-retail uses should be carefully controlled. In addition, each non-retail use should be set apart from similar uses, particularly if window displays are not to be retained.

7. In the case of this terrace, the non-retail proportion is already in excess of 50% and the appeal site is isolated from other retail uses. In addition 2 of its near neighbours are restaurants and present relatively blank frontages.

8. However even if the proportion of existing non-retail uses had been less, it seems to me that the problem of lack of private parking is significant for the proposed use on this particular site. In my opinion the council is justified in requiring that some degree of off street parking should be available for a new restaurant on this busy and relatively narrow road. Indeed the suggestion that a take away service would be available seems to me to confirm that the proposal would be likely to lead to an increased risk of traffic obstruction and a possible reduction in road safety in this congested position.

9. I therefore conclude that even if a further non retail use was acceptable on this site, its use as proposed is unacceptable on parking and traffic grounds.

10. I have taken into account all the other matters raised in the representations but do not find that they affect my conclusions on the planning issues involved.

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

I am Sir  
Your obedient Servant

B. A. Jenkins.

C A JENKINS BSc CEng MICE MIWES MBIM  
Inspector