



**Department of the Environment and
Department of Transport**

Common Services

Room 140 Tollgate House Houlton Street Bristol BS2 9 DJ

Telex 449321

3824

Direct line 0272-218 913

Switchboard 0272-218811

**EXECUTIVE
OFFICE**

19 MAR 1984

File Ref.

Refer to

Cleared

CPO 19/3

Messrs Giffen Couch and Archer
Solicitors

Britannic House
20 Dunstable Road
LUTON

Bedfordshire LU1 1ED

Your reference

RLB/BOC

Our reference

T/APP/A1980/A/83/008789/REL
PLANNING DEPT
MARKYATE DISTRICT COUNCIL

Date
Ref.

16 MAR 84

C.P.O.

D.P.

Ack.

Admin.

Received

19 MAR 1984

Comments

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR S N DAVIES
APPLICATION NO:- 4/1135/83

1 MB
2 CB
3 JTB
4 JTB AM 2
*RETURN TO MR FOR
COMMITTEE REPORT*

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. The appeal is against the decision of the Dacorum District Council to refuse planning permission for the change of use to offices at 121 High Street, Markyate. I note that the use has already commenced, and I will therefore treat the appeal as being for it to continue under Section 32 of the Town and Country Planning Act 1971.

2. From my inspection of the site and surroundings on 23 January 1984, and from my consideration of the written representations made by you, the council and an interested person, I am of the opinion that the decision in this appeal rests primarily on whether the continuation of the office use would be acceptable bearing in mind the council's planning policies regarding the location of offices and the need to safeguard existing residential accommodation for use as such on the one hand, and the need to encourage small businesses as advised in Circular 22/80 on the other.

3. The appeal premises are situated at the junction of High Street and Hicks Road near the southern end of the High Street, which is the main street in Markyate containing most of the limited number of shops and business premises. However the street still contains a considerable number of properties solely in residential use.

4. The ground floor of the appeal premises enjoys the benefit of planning permission, granted in February 1983, for use as a restaurant and comprises 3 rooms - the former shop at the front (facing High Street), a room at the rear, presumably a living room in the past, and a large kitchen. There is a separate door from Hicks Road with a passageway to the room at the rear of the shop and a stairway to the first floor where there are 2 rooms, presumably used formerly as bedrooms (or one living room and one bedroom), and a bathroom/toilet. At the rear of the premises there is a fairly large outbuilding, with part of it having a vehicular access from Hicks Road and an opening on the northern side, thus forming a car port. On the rear boundary there is a large gate from a vehicular access road serving properties on the northern side. It would thus be possible to use the existing rear garden to provide off-street car parking space for 2, or possibly 3, cars each having independent access. There is thus no objection to the proposed use on account of inadequate parking.

5. I cannot see any reason for considering the appeal premises unsuitable for continued residential use, in addition to some form of shop or commercial use on the ground floor. The accommodation on the first floor would clearly be most suitable for use as part of a dwelling unit in conjunction with the rooms behind the shop on the ground floor as there is no kitchen upstairs. However it would be possible to provide cooking and washing-up facilities there, and of course the first floor could be made into a small self-contained flat as there is the door to Hicks Road. I accept that the flat would be very small, but there is now an increasing need for such accommodation. Clearly the use of the whole of the premises as offices does not accord with the council's planning policies as it has resulted in the loss of an accommodation unit contrary to the provisions of Policies 56 and 61 of the District Plan. Furthermore an office use is contrary in principle to the County Structure Plan and Policy 52 of the District Plan which seek to direct offices generally into the town centres of Hemel Hempstead, Berkhamsted and Tring. I am thus of the view that there would have to be some special reason for making an exception to these policies.

6. I appreciate that in addition to its other provisions, Circular 22/80 seeks to encourage small businesses of all sorts at this time of high unemployment, except where there is a strong and clear-cut planning reason for refusal of a proposal. I note that your client's firm is concerned with filling employment vacancies for local firms, but I have no firm evidence that other suitable offices could not be found in the area to meet his needs. I have considered whether it might be justified to grant permission for the office use to continue on a temporary basis, but I do not consider this would be justified, especially in the light of the advice in paragraph 15 and Annex B of Circular 22/80 regarding the action to be taken in respect of unauthorised uses, which if followed by the council would achieve the same benefits to your clients. Obviously the appeal premises are most suitable, from a planning point of view, for a shop/business use with living accommodation as a single unit because of the lack of a kitchen on the first floor, and indeed they are very attractive for such a use, which would include a restaurant or cafe as the cooking facilities could be used commercially and domestically. Moreover there is an off-street parking space, storage in the outbuildings at the rear, and an attractive small back garden. I therefore trust that your clients' business can be satisfactorily relocated so that an appropriate use of the premises, including the residential unit, can be resumed.

7. I have therefore decided that, on balance, planning permission should, in the circumstances, be refused for the unauthorised use to continue, and although I have examined all the other matters, including the reference to the permission granted for the use of a building in a former builder's yard at Markyate as offices, which of course did not involve the loss of residential accommodation, there is nothing of sufficient substance to outweigh those considerations that have led me to my decision.

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

I am Gentlemen
Your obedient Servant



J M DANIEL DFC FBIM
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM
IN THE COUNTY OF HERTFORD

To Mr S N Davies
121 High Street
Markyate
Herts

| |
|-------------------------------------|
| Use of premises as offices and shop |
| at 121 High Street |
| Markyate |

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 and received with sufficient particulars on 2.9.83 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 proposal would, contrary to County Structure Plan and deposited District Plan policies, result in the loss of a residential unit still capable of satisfactory occupation.
2. The deposited Dacorum District Plan policy seeks to direct new office development including changes of use to the Commercial Areas in the town centres of Hemel Hempstead, Berkhamsted and Tring as shown on the Proposals Map.

Dated 13th day of October 19..83..

Signed.....

Chief Planning Officer

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, 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.
- (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.