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CHIEF EXECUTIVE
OFFICER

24 APR 1987

File No. CPO 24/87
Received 24 APR 1987

Our reference			
T/APP/A1910/A/86/059979/P2			
Date	21 APR 87	Adm	File
Comments			

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPLICATION NO: 4/1152/86 15, MARLOWES, H/H

- As you know, I have been appointed by the Secretary of State for the Environment to determine your appeal. This is against the decision of the Dacorum Borough Council to refuse planning permission for the change of use from retail to Class II office use (for estate agents) on the ground floor only at 15 Marlowes, Hemel Hempstead. I have considered the written representations made by you and by the council and also those made by other interested persons. I inspected the site on 26 January 1987.
- From what I have seen and read I have formed the opinion that the main issue in this case is the likely effect of the project on the character and appearance of the shopping area, particularly its ability to attract shoppers.
- The project lies in the area covered by the Dacorum District Plan which was adopted in 1984. Policy 19 requires development to include a provision for car parking based on the council's adopted guidelines. Policy 90 indicates that a change from a shop to a non-shop use in primary shopping frontages will normally be refused. In other shopping areas such uses will normally be acceptable provided there is no general shortage of shops in the area and the proportion of non-retail uses in the immediate vicinity is not already excessive. The council have also adopted refinements to this latter policy in their publication entitled Non-Shop Uses in Shopping Frontages.
- Local planning policies should be weighed against national priorities. Development Control Policy Note No 11 gives advice on service uses in shopping areas. DOE Circular 14/85 makes it clear that there is always a presumption in favour of development unless demonstrable harm would be caused to any interests of acknowledged importance.
- Turning to the main issue, this part of Marlowes to my mind is a secondary shopping frontage within a commercial area. It is quite close to the town's main shopping centre. Both national and local policies suggest that non-retail uses may be acceptable in such areas as long as the overall number of service outlets has not reached the level at which changes from retail shops should be resisted.
- Currently about 9 of the 19 or so units which make up the parade of shops are in a non-retail use; about 4 of the non-retail units are estate agents offices. Although the ratio of non-retail uses is high to my mind it has not

yet reached such a concentration where there would be a general shortage of shops and further changes of use might need to be resisted.

7. In this case, it is germane that the project would not create a dead frontage. Indeed, it is my experience that estate agent's offices can fit well into retail frontages. They usually have attractive shop windows and are the kind of use which draws people into the area. In the light of the above it seems to me that the project would not have a materially harmful effect on the character and appearance of the shopping area, or its ability to attract shoppers. There are therefore no sound relevant or clear-cut reasons to withhold the normal presumption in favour of development.

8. In coming to this opinion I have considered the scheme's likely effect on traffic. The existing shop appears to be typical of many in this parade and has no purpose built off-street parking area. Businesses appear to rely on existing carparks and the lengths of allowable kerbside parking. At the time of my visit Marlowes seemed to be a busy street and parking facilities were well used.

9. The Council's parking standards for small offices and shops in central areas appear to be very similar. Although an estate agent's office might employ more staff, and attract slightly different vehicle movements, than a retail outlet to my mind existing standards of road safety would be safeguarded by the comprehensive series of traffic regulation orders already in force hereabouts. In forming this view I have not given undue weight to your unsubstantiated claim that 2 parking spaces would be available for the project's use at Hemel Hempstead Businessman's Club nearby.

10. I have also reflected upon the allegation that there are already too many estate agents in this part of the town. In my assessment this is a matter for commercial judgement rather than figuring as an important land use planning matter. Further, I have taken into account the existence of an appeal on a nearby site, for another estate agent's office which has been lodged with the Department and is due to be considered later in the year. It is a well established principle that each planning application should be considered on its own merits.

11. I shall allow this appeal but in order to protect the character of the shopping area and its ability to attract shoppers I shall make the permission a conditional one. In my judgement the project should retain the appearance of a shop and be restricted to a use which would attract people into the area.

12. I have considered all the other matters raised, including the recent appeal decision at 9 Marlowes (DOE reference T/APP/A1910/A/86/058521/P5) but such matters are not compelling enough to change my conclusions on the material considerations which have led to my decision.

13. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use from retail to Class II office use (for estate agents) on the ground floor only at 15 Marlowes, Hemel Hempstead in accordance with the terms of the application (No 4/1152/86) dated 13 August 1986 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun not later than the expiration of 5 years from the date of this letter;

2. the premises shall be used for an estate agent's office and for no other purpose (including any other purpose in Class II of the schedule of the Town and Country Planning (Use Classes) Order 1972, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order);

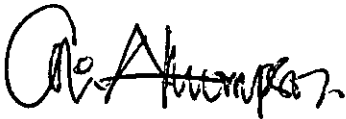
3. a 'shop window' with a window display shall be maintained on the Marlowes frontage.

14. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

15. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

16. 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



C A THOMPSON DiplArch DipTP RIBA MRTPI
Reg Architect
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGH COUNCIL

To

Perrys Estate Agencies Limited,
2a Alexandra Grove,
Finchley,
London
N12 8NU.

..... Change of use of ground floor shop to Estate
 Agents' Office
 at 15 Marlowes, Hemel Hempstead, Herts.

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 undated and received with sufficient particulars on 13 August 1986 and shown on the plan(s) accompanying such application..

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

The proposal is likely to result in greater vehicle usage by staff and in the absence of any off-street car parking provision within the application site will increase demand for parking on the street or in public car parks.

Dated 25th day of September 19 88

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.