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31 JUL 1987

File Ref.

Refer to

CP2 31/7

Michael Thorncroft Esq
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80 New Bond Street
LONDON
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Your reference

Our reference: PLANNING DEPARTMENT
T/APP/A1910/A/87/063799/MP2

Ref. Date

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Received

31 JUL 1987

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY BRIDE HALL DEVELOPMENTS LIMITED
APPLICATION NO: 4/1262/86

1. I have been appointed by the Secretary of State for the Environment to determine the above appeal against the decision of the Dacorum District Council to refuse planning permission for a 3-storey office building and associated external works at 37 Marlowes, Hemel Hempstead. I have considered the written representations made by you and by the council, and I inspected the site on 1 June 1987.
2. From my inspection and the representations before me I consider that this appeal raises 4 main issues. Firstly, whether the proposal would result in damage to or the loss of a large tree on the site and thereby harm the appearance of its surroundings; secondly, its effect upon the setting of the neighbouring listed building; thirdly, whether it would be prejudicial to highway safety by virtue of a substandard access; and fourthly, the adequacy of the car parking facilities proposed.
3. The approved Hertfordshire Structure Plan (Alterations No. 1) seeks to limit office development to that needed to accommodate firms substantially serving the local community, or otherwise needing to be located in the county. The adopted Dacorum District Plan contains a policy confining new offices to the commercial centres of towns including Hemel Hempstead. The plan also requires all new developments to include provision for car parking in accordance with the council's guidelines appended to it, and to pay particular regard amongst other things to access, landscaping, external appearance and materials.
4. The appeal site is occupied at present by the former manse to Marlowes Baptist Church, a grade II listed building, immediately to the north. It also contains a large mature tulip tree near its south-west corner. This tree is one of three protected by the Tree Preservation (Marlowes, Hemel Hempstead) Order No. 2 1977.
5. Notwithstanding the restrictive policy relating to office development in the structure plan, the officer's report to the planning committee concerning the application states that there is no objection to the proposal on policy grounds. You suggest that the users of the building would probably be local firms, and point out that the policy was approved prior to the publication of Department of Environment Circular 1/85 which advises that conditions relating to local use should be employed only sparingly. In the absence of any demonstrated need for such a restriction in this instance, and since it accords with the district plan's policy on office location I see no reason to disagree with the officer's conclusion in this context.

6. The proposed building, although larger than the former manse, would maintain the building line which it occupies. The existing landscaped area in front would be largely replaced with car parking spaces, however, and the council are concerned that this would lead to damage to or loss of stability for the tulip tree. The application plans show 4 parking spaces in front of the building, and space No. 1 is only about 0.5 m from the tree. From the specialist evidence submitted on behalf of the appellant I am satisfied that such an arrangement would result in serious damage to it.

7. A revised scheme has been submitted in the light of this and other comments, and this would move space No. 1 about 2 m from the tree. The council are unconvinced that this would ensure its safety, and they suggest that the measurements quoted in the specialist's report indicate that he was referring to this revised proposal which would, by implication, be unsatisfactory. The report refers to the drawing by number and also to a letter from the appellant's architect dated 14 January. The drawing was not revised until 20 January according to a note on it. I am satisfied, therefore that the arboriculturalist was referring to the application plan. Based upon this I accept that serious damage to the tree could be avoided by the omission of one or preferably 2 parking spaces.

8. The provision of car parking in front of the building would also, in the council's view, detract from the setting of the listed building. During my inspection I observed that most of the area in front of the church is covered with tarmac which is marked out, albeit incompletely, for car parking spaces, some of which were being used. Whilst I accept that the landscaping in front of the manse may contribute to the general setting of the church I consider its effect to be limited since it is on the opposite side of the access and so is not seen together with the building from the entrance. In my view, therefore, the parking spaces in front of the proposal need not harm the setting of the church provided suitable materials were employed, particularly as their number would be limited to avoid damage to the tree.

9. The existing access to the appeal site and church is about 3.5 m wide which is sufficient to allow only 1 vehicle at a time to enter or leave through it. The proposal would result in more cars using it, and the lack of a facility for vehicles to wait off the carriageway for emerging vehicles to clear the access leads me to conclude that it would be prejudicial to road safety. Also there is a retaining wall along the front of the site which is about 1.2 m high and this seriously restricts the view available for an emerging driver of pedestrians and possibly traffic. I agree with the council, therefore, that the access would be inadequate to serve the proposed development.

10. A revised proposal has been submitted which would provide an entrance 4.1 m wide with satisfactory sight-lines, and this has been accepted by the council's highway engineer to be suitable in terms of road safety. The council, nevertheless find it unacceptable because it would entail the removal of about 3 m of the boundary wall, and they consider that this would detract from the setting of the listed building. I note from my inspection that the flats to the north have no boundary wall and the offices to the south possess only a very low front wall. The wall in front of the church and the appeal site is a prominent feature in the street therefore. Nevertheless, the proposal would remove a relatively short length, and it appears to be the only practicable way of providing a satisfactory access, and on this basis I do not consider that it would be unacceptable.

11. The proposal would create 890 sq m of offices, and to satisfy the council's generally applied standard 23 car parking spaces would be needed. The application plans indicate only 18, however, and this would need to be reduced by one or possibly two in order to safely accommodate the tulip tree. You suggest that being

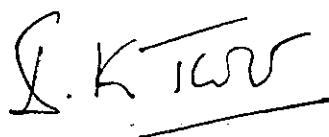
on the fringe of the town centre the appeal site is well served by public car parks which would accommodate any additional requirement. Whilst I acknowledge that there are 2 quite large car parks close by the town centre is busy and at the time of my inspection the parking areas near the site were congested. You also point out that there is the facility of some on-street parking in the vicinity. The proposed development would add to the competition for such spaces which appear to be constantly used. I consider that it would be imprudent to rely upon them, therefore. In the light of my observations I am satisfied that the council's parking requirements are not unreasonable in this instance and since the proposal would provide less than 75% of the spaces required I consider that it would be seriously deficient.

12. The proposed building would be substantially larger than the existing. From the front, although only 1 m or so higher than the ridgeline of the manse, it would be wider, leaving only 3 m between it and the south wall of the church over a length of more than 15 m. I acknowledge that on the ground floor there would be access under the building to the rear car park, but I consider that this close proximity would render it rather overbearing upon its neighbour to the north, and seriously detract from the setting of the listed building from viewpoints by the entrance and along its south side, which gives access to various ancillary buildings which were in use at the time of my inspection. Whilst I accept the council's comments about its general design I share the county planning officer's reservation about the archway since it is not aligned with any other parts of the building.

13. Whilst the appellant has demonstrated that some of the council's objections could be overcome I consider the car parking facilities to be seriously deficient, and the harm to the setting of the listed building would be unacceptable.

14. I have taken account of all other matters raised in the representations, but they do not outweigh the considerations leading to my decision. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Sir
Your obedient Servant

A handwritten signature in dark ink, appearing to read 'I. K. Turner', with a horizontal line drawn underneath the name.

I K TURNER LLB(Hons) DipArch RIBA FRSA ACI Arb
Inspector

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



RB

DACORUM BOROUGH COUNCIL

To Bride Hall Developments Ltd
56 Grosvenor Street
London W1

Archer Boxer Partners
ABP House
Salisbury Square
Hatfield Herts

Office Building and Car Parking

at 37 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 2.9.86 and received with sufficient particulars on 8.9.86 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 as submitted does not provide for a satisfactory means of access being sub-standard in width and visibility and likely to give rise to conditions prejudicial to highway safety.
2. There is inadequate provision for vehicle parking within the site to meet the standards adopted by the local planning authority.
3. The location of parking spaces in front of the proposed building will have an adverse effect upon the setting of the adjacent listed building and on the stability and future life of the preserved Tulip tree.

Dated 6 day of November 1986

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.