



PLANNING

Civic Centre Marlowes
Hemel Hempstead
Herts HP1 1HH

MR MIAH
3A MARLOWES
HEMEL HEMPSTEAD
HERTS

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01430/99/DRC

3A MARLOWES, HEMEL HEMPSTEAD, HERTFORDSHIRE, HP1 1LA
DETAILS OF EXTRACTION SYSTEMS REQUIRED BY CONDITION 3 OF
PLANNING PERMISSION 4/1915/98 (CHANGE OF USE TO A3 SHOP FOR SALE
OF HOT FOODS)

Your application for the approval of details required by condition dated 10 August 1999
and received on 10 August 1999 has been **GRANTED**, subject to any conditions set
out overleaf.

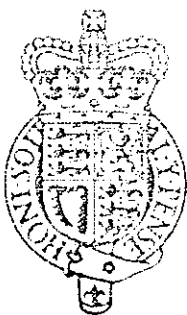
Director of Planning

Date of Decision: 10 September 1999

CONDITIONS APPLICABLE TO APPLICATION: 4/01430/99/DRC

Date of Decision: 10 September 1999

. No conditions.



Appeal Decision

PLANNING DEPARTMENT	
Dacorum Borough Council	
Bristol BS2 9D1	
0117 987 8997	FILE
Comments	

site visit held on Monday, August 9 1999

01 SEP 1999

by R E Hurley CEng MICE MHT

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

31 AUG 1999

Appeal : T/APP/A1910/A/99/1023888/P5

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is brought by Mrs J M Cash-Reed, Mrs M D Bates & Mrs E J Taylor against Dacorum Borough Council.
- The site is located at 3A Marlowes, Hemel Hempstead.
- The application (ref: 4/01915/98/FUL) dated 5 November 1998 was approved by the Council on 9 December 1998 subject to conditions.
- The development proposed is the change of use to A3 shop for the sale of hot food.
- The condition in dispute is No. 2 which provides that the premises shall only be open to customers between 8:00 am and 11:30 pm on Mondays to Saturdays and shall not be open to customers at any time on Sundays, Bank Holidays and Public Holidays.
- The reason for the condition is "In the interests of the amenities of the occupants of neighbouring residential properties".

Decision: The appeal is allowed and I vary planning permission No. 4/01915/98/FUL for the change of use to A3 shop for the sale of hot food granted on 9 December 1998 by the Dacorum Borough Council by deleting condition No. 2 and substituting therefor the following condition:

the premises shall not be open for customers outside the following hours:
0800 to 2330 Mondays to Saturdays; 1100 to 2300 Sundays, Bank Holidays and Public Holidays:

Procedural matters

1. I was unable to enter the appeal premises at the time of my site visit. However, I was able to see the layout of the accommodation in the shop through the front and rear windows. I am satisfied that I have sufficient information to come to my decision.

Development Plan

2. The Development Plan for the area is the Hertfordshire Structure Plan Review 1991-2011, adopted April 1998, and the Dacorum Borough Local Plan, adopted April 1995. The council refer to Policies 1, 3 and 4 of Structure Plan Review and Policies 1, 7, 8, 9, 10, 34, 35, 38 and 39 of the Borough Local Plan. They also refer to their Environmental Guidelines relating to parking requirements. The site is situated within an area which forms part of the Hemel Hempstead Town Centre Strategy where Policy 7 of the Borough Local Plan applies.

The main issue

3. The appellants seek to remove the restriction of trading on Sundays, Bank Holidays and Public Holidays. Accordingly, the main issue is whether the operation of the appeal premises as a hot food takeaway would harm the general living conditions of nearby residents by reason of noise, pollution and traffic generation, sufficient to warrant a condition preventing it opening on Sundays, Bank Holidays and Public Holidays.

Inspector's reasons

4. The appeal premises, a small shop unit, are situated within a parade of shops with residential accommodation above which fronts the eastern side of Marlowes. There are a number of restaurants, hot food take-aways and a public house in the parade of which the appeal premises form part. Some of these have signs which indicate that they open on Sundays, Bank Holidays and Public Holidays. The parade stands towards the northern end of the Hemel Hempstead town centre.
5. The proposed use would attract customers from a wide area, including people who would be car borne. However, my opinion view is that it would be unlikely to generate large amounts of traffic which would park in Marlowes because the appeal premises are a small unit. Moreover, the site is well served by public transport and some customers would park elsewhere because they would be visiting the town centre for some other purpose. I do not consider that there would be a significant increase in the noises associated with vehicles arriving and departing in the vicinity of the appeal site. There could be other noisy activities associated with the proposed use. However, I do not consider that these would disturb the people living in the flats above the parade of shops, bearing in mind that other Class A3 uses in the parade would be open on Sundays, Bank Holidays and Public Holidays. I find that the proposal would not result in harm to the amenities of nearby residents by reason of noise and traffic generation. In coming to this finding I have borne in mind that people who choose to live in town centres derive benefits from the proximity to shops, jobs, entertainment, public transport and consider that these outweigh increased noise, activity and disturbance.
6. Any fumes and smells generated by the proposed use would be extracted and filtered by a scheme which is the subject of condition 3 of the planning permission for the approved use. Therefore, the risk of odours being noticed by nearby residents and passers-by is minimal. My view is that allowing the proposed use to open on Sundays, Bank Holidays and Public Holidays would not increase the fumes and odours in the area to an unacceptable level.

Conclusions

7. Provided that the opening hours of the approved use are limited on Sundays, Bank Holidays and Public Holidays, I do not consider that the proposed use would harm the amenities of nearby residents by reason of noise, pollution and traffic generation. If this appeal succeeds the council suggest that these times should be between 1100 and 2300. I consider that these hours are reasonable.
8. For the reasons given above I consider that, on balance, the appeal should succeed and I shall exercise the powers transferred to me accordingly.

