D.C.11 JDS

Town Planning Ref. No. 4/1442/87LB

Other Ref. No. .....

TOWN AND COUNTRY PLANNING ACTS, 1971 TO 1974

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To: V. Hawkins, Esq.,
99 Flaunden,
Nr. Hemel Hempstead,
Herts.

D. Clarke, Esq.,
Planning Consultant,
47 Gravel Lane,
Hemel Hempstead,
Herts.

Alterations to external appearance

at Ingle Nook Cottage, 99 Flaunden,
Nr. Hemel Hempstead, Herts.

Description and location of proposed works

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 grants listed building consent to the works described above and proposed by you in your application dated 17 September 1987 and received with sufficient particulars on 18 September 1987 and shown on the plan(s) accompanying such application subject to the following conditions:

The works to which this consent relates shall be begun within 3 years of the date of this consent.

Please Turn Over

The reasons for the Council's decision to grant listed building consent for the works proposed subject to the above conditions are:

To comply with the requirements of s.56A of the Town and Country Planning Act 1971.

Dated ....28th.... day of ....October.... 19.87....

Signed .....

Designation ....Chief Planning Officer....

NOTE

1. If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, he may, by notice served within six months of receipt of this notice, appeal to the Secretary of State for the Environment in accordance with part one Schedule 11 to the Town and Country Planning Act, 1971. The Secretary of State has power to allow a longer period for the giving of a notice of appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the local planning authority in regard to the proposed works are in progress.

2. If listed building consent 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 works which have been or would be permitted, he may serve on the council of the county district, in which the land is situated a listed building purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Section 190 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 section 171 of the Town and Country Planning Act, 1971.

Attention is drawn to Section 55(2)(b) of the Act, the effect of which is that demolition may not be undertaken (despite the terms of the consent granted by the local planning authority) until notice of the proposal has been given to the Royal Commission on Historical Monuments, Fortress House, 23 Saville Row, London W1X 2HE, and the Commission subsequently have either been given reasonable access to the building for at least one month following the grant of consent, or have stated that they have completed their record of the building or that they do not wish to record it.

C/309/JLC/P

Department of the Environment and
Department of Transport
Common Services
Room 1122 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321
Direct line 0272-218915
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25557

PLANNING DEPARTMENT
DACORUM DISTRICT COUNCIL
Ref. 0272-218915 | Ack.
C.P.S. Council reference: 4/1443/87E Admin. File 4/0531/87
Your reference
Received 24 JUN 1988
Our reference T/APP/C/87/A1910/000005/P6
Comments /A1910/A/87/077690/P6
Date 22 JUN 88

Mr C T W Heading
Oakway House
Bridle Lane
Loudwater
CHORLEYWOOD
Herts WD3 4JB

CHIEF EXECUTIVE OFFICER
24 JUN 1988
File Ref. CO 24/6
Refer to
Cleared

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AND BUILDINGS AT HEADLOCK WORKS, EBBERNS ROAD, HEMEL HEMPSTEAD, HERTS

1. I have been appointed by the Secretary of State for the Environment to determine your appeals against an enforcement notice issued by the Dacorum Borough Council and against a refusal of planning permission by that Council concerning the above-mentioned land and buildings. I held an inquiry into the appeals on 15 March 1988 and I inspected the site on the same day.

2. a. The notice was issued on 12 August 1987.

b. The breach of planning control alleged in the notice is the failure to comply with condition No. 3 subject to which planning permission was granted.

c. The permission (No. 4/1272/83) was granted on 24 November 1983 and was for a change of use from industrial to wholesale distribution of decorating materials.

d. The condition which is alleged not to have been complied with is as follows:

> 2. The use hereby permitted shall not be commenced until the car parking and circulation facilities shown on Plan No. 4/1272/83 shall have been provided and these facilities shall be retained and maintained at all times thereafter.

e. It is alleged that the condition has not been complied with in that the development has commenced but the car parking and circulation facilities shown on Plan No. 4/1272/83 in the area shown edged green on the plan attached to the notice have not been provided.

f. The requirements of the notice are

(i) that the car parking area be cleared of rubbish and surfaced with tarmac and

(ii) that individual parking spaces be marked out on the parking area.

g. The period for compliance with the notice is 2 months.

h. The appeal was made on the grounds set out in Section 88(2)(a) and (b) of the 1981 Act as amended.

3. The development for which planning permission was refused is the erection of a 2-storey rear extension.

4. Headlock Works is a part 2 and part 3 storey industrial building located on the south-western side of Ebberns Road between Ebberns Road and the Grand Union Canal. The land falls gently from Ebberns Road towards the Canal. The appeal site forms part of an industrial estate which extends along the south-western side of Ebberns Road. It is adjoined to the north-west and south-east by other industrial premises. To the north-east, on the opposite side of Ebberns Road there is residential development.

5. The appeal premises have a floor area of about 621 m^2 and were erected in the mid 1960s. The building has subsequently been subdivided into a number of smaller units. It has also been altered by the formation of an opening with a roller shutter door on each of the 2 flank elevations and by the construction of a single-storey covered storage area on the south-eastern side of the building. An open area of land at the rear of the building where it backs onto the canal is overgrown and littered with waste materials. At the front of the building there is a hardsurfaced forecourt area with an average depth of about 12 m. At the time of my site inspection it was partly in use for car parking and partly for the loading and unloading of vehicles.

6. On the south-eastern side, an accessway formerly leading to the rear of the building has been blocked by the recently constructed covered storage area. A further accessway on the north-western side of the building also appears to be used for car parking purposes. To the north-west of this there is a driveway leading to the rear of the adjoining industrial premises. You say that you have a right of way over this driveway to the rear of your premises although the extent of this is disputed by the adjoining owner who objects to your proposed development and supports the Council in their enforcement action.

7. At the inquiry you suggested that it was not practicable to lay out additional parking spaces at the rear of your premises until the question of your intended rear extension had been resolved. You suggested that by refusing permission for your proposed 2-storey extension, the Council were delaying and preventing the provision of the necessary parking spaces. I therefore propose to deal first with your Section 36 appeal.

Section 36 Appeal

8. In support of your appeal you point out that planning permission was granted in 1978 for a 3-storey rear extension incorporating car parking for 5 cars at ground level. You say that as work commenced on that extension and the foundations laid, it is open to you to complete the extension in accordance with the originally approved plans. The Council do not dissent from that view acknowledging that the works undertaken were "specified works" within the meaning of Section 43 of the Town and Country Planning Act 1971. However they find your proposal for a 2-storey unacceptable, with the nub of their objection being the inadequacy of the proposed car parking provision. Having seen the appeal site and its surroundings and carefully considered the evidence and representations, it is my opinion that the main issue in this appeal is whether satisfactory off-street parking facilities can be provided.

9. The proposed extension would have a floorspace of 240 m^2 giving a total floorspace of 861 m^2 and the Council's normal parking requirement is one space per 35 m^2 of industrial floorspace. However they have indicated they would be prepared to reduce their requirement in this case to 20 spaces. Given that 2 of the occupiers of the building, Ebbern's Plummers and Mills Decorating Supplies, appear to attract both trade callers and member of the general public, I do not regard the Council's requirement as unreasonable. At my site inspection I observed that the forecourt of the building is at times cluttered with parked vehicles making it difficult for

larger vehicles to deliver or collect goods from the front or side of the site. I saw one lorry having to park with its wheels on the pavement to collect goods from the premises. Given the extent of existing on-street parking and the residential use of the properties opposite, I do not think it reasonable that the further development of your site should rely on additional on-street parking.

10. Whilst your application showed 20 parking spaces and the revised layout which you produced at the inquiry showed 23 spaces, the Council took the view that these spaces would be unworkable as they would block access for delivery vehicles to the loading doors on the north-western side of the building and those proposed at the rear of the intended extension. Compared with the approved 1978 layout, they say that the impracticability of the spaces now proposed would result in a lower and substandard level of provision.

11. Having carefully looked at the position on site, I am inclined to agree with the Council's assessment. Whereas the 1978 scheme would have left the accessway on the north-western side of your site clear of parked vehicles, I am satisfied that your current proposals, involving the parking of vehicles alongside the building would seriously impede access for delivery vehicles to the side of the building. Whilst gaps could be left between parked vehicles in the vicinity of the loading doors, this would be difficult to enforce and I think it inevitable that delivery vehicles would be forced to load and unload from the driveway of the adjoining property thereby obstructing other users of that driveway. I consider that your proposed extension would serve to exacerbate existing parking and loading problems to an unacceptable degree. Accordingly the Section 36 appeal fails.

Section 88 Appeal

12. Turning to the enforcement notice, your appeal under ground (b) contends that the matters alleged in the notice do not constitute a breach of planning control. However, from a careful examination of the planning permission (No. 4/1272/83) dated October 1985 (Document 4 (LPA7)), I find it incontravertible that condition requires that the permitted change of use should not take place until the car parking and circulation facilities shown on the approved plan have been provided. The use was commenced although the car parking and circulation space have not yet been laid out. I am therefore satisfied that there has been a breach of planning control. Accordingly, your appeal on ground (b) fails.

13. Going on to your appeal on ground (a) I have considered whether the condition, which it is alleged has been breached, was properly imposed. It appears to me that in considering the 2 applications for changes of use of individual parts of the building to use for wholesale distribution purposes the Council have considered the building as a whole and have imposed conditions requiring the implementation of a parking layout which was submitted in support of the individual applications but which clearly relate to the parking needs of the whole building. Bearing in mind that the parking spaces allocated to individual units would not be severable from the remainder of the car parking layout, I consider the Council's approach to be valid.

14. On the planning merits of the case, it appears to me that the main issue in this appeal, is whether in the absence of the required spaces there is a serious deficiency in off-street car parking provision.

15. The Council point out that when the building was first erected in 1965, the approved plans showed 12 spaces at the rear of the site. These were never provided notwithstanding enforcement notices served in 1968. On the basis of their current standard, I calculate that the requirements could be as high as 18 spaces. However I note that this was the total requirements in 1978 when your 3-storey extension was proposed. Without that extension I consider that 12 spaces would be a very modest

requirement for a building which now includes an element of wholesale distribution which involves a flow of customers calling at the premises to collect goods.

16. In my assessment, no more than 5 cars can be parked on the front forecourt area without obstructing the movement of larger vehicles collecting or delivering goods to or from the front and side of the premises. There is therefore a substantial deficiency which from what I saw on site and from the representations, gives rise to indiscriminate parking at the front and side of the building compelling delivery vehicles to load and unload in a manner which seriously inconveniences the occupiers of the adjoining industrial premises and causes nuisance to nearby residents. In these circumstances the appeal on ground (a) fails.

17. Because the correct fee payable under the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1987 has not been paid, I do not propose to deal with the application for planning permission deemed to have been made under Section 88B(3) of the 1971 Act as amended.

18. Although there has been no appeal on ground (h), I have nevertheless considered whether 2 months is an appropriate period in which to comply with the notice. Given the requirement that the car parking area be surfaced and parking spaces marked out, I take the view that 2 months is an unreasonably short period for compliance and I propose to vary the notice in that respect to a period of 6 months.

19. I have taken account of all other matters raised at the inquiry and in the representations but I find nothing which leads me to a different decision.

FORMAL DECISION

20. For the above reasons, and in exercise of the powers transferred to me, I hereby determine these appeals as follows:

Section 36 Appeal

I dismiss your appeal.

Section 88 Appeal

I hereby direct that in the penultimate paragraph of the notice, the word "two" be deleted and the word "six" substituted. Subject to this variation, I dismiss your appeal and uphold the notice.

RIGHT OF APPEAL AGAINST DECISION

21. This letter is issued as a determination of the appeals before me. Particulars of the rights of appeal against the decision to the High Court are enclosed for those concerned.

I am Sir
Your obedient Servant

K E HYLAND BA FRTPI
Inspector

ENC

Ref Nos: APP/C/87/A1910/000005/P6
APP/A1910/A/87/077690/P6

APPEARANCES

Mr C T W Heading - The appellant.

FOR THE PLANNING AUTHORITY

Mr S C Baker - Articled Clerk with Dacorum Borough Council.

He called:

Mr R J Chapman BTP MRTPI - Assistant Planner, Dacorum Borough Council.

DOCUMENTS

Document 1 - List of persons present at the inquiry.

Document 2 - Council's notification of inquiry and circulation list.

Document 3 - Representations received.

Document 4 - Bundle of documents submitted by Mr Chapman numbered LPA1-13.

Document 5(i) & (ii) - Copies of Deeds submitted by Mr Heading.

Document 6 - Copy of lease between Mr C T W Heading and Messrs C Ganaway and J Biggerstaff.

PLANS

Plan A - Plan attached to the enforcement notice.

Plan B(1) & (2) - Application plans (4/0531/87) relating to S36 Appeal.

Plan C - Application plans (4/1746/86).

Plan D - Approved plans for 3-storey extension (4/1569/78).

Plan E(1) & (2) - Plans of Headlock Works as originally approved.

Plan F - Extract from originally approved site layout (8548/2).

Plan G(1) & (2) - Alternative car parking layouts submitted by Mr Heading showing 22 and 23 car parking spaces respectively.