A/495X/AJT/P

Team 2
DW/GOTKING
EO(WACKER)

CEG

Department of the Environment and Department of Transport
Common Services
Room 1410 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321
Direct line 0272-218 938
Switchboard 0272-218811
GTN 2074

21078

Council Ref: 4/1481/86E/DPN/SC

CHIEF EXECUTIVE OFFICER
7 JUL 1987
File
Refer to C.P.O. 7/7
Cleared

Newking Associates
13 Chapel Street
TRING
Herts
HP23 6BL

Your reference
MWTE/KK

Our reference DEPARTMENT
~~T/APP/A1910/A/86/4057/P6~~ and
~~T/APP/A1910/A/86/50002/P6~~

C.P.O.	Date 6 MAY 87	Ack.
		Admin. / File

Received - 7 JUL 1987
Comments

Sir and Madam

TOWN AND COUNTRY PLANNING ACT 1971, SECTIONS 88 AND 36 AND SCHEDULE 9
LOCAL GOVERNMENT AND PLANNING (AMENDMENT) ACT 1981
LAND AND BUILDINGS AT 13 CHAPEL STREET, TRING

1. I have been appointed by the Secretary of State for the Environment to determine your appeals. These appeals are against an enforcement notice issued by the Dacorum District Council and against a refusal of planning permission by that Council concerning the above-mentioned land and buildings. I have considered all the representations made by you and by the Council and also those made by other parties and interested persons and I inspected the site on 24 February 1987.

2. a. The date of the notice is 14 October 1986.

b. The breach of planning control alleged in the notice is the change of use of the premises for residential to office use.

c. The requirements of the notice are to cease the office use of the premises.

d. The period for compliance with the notice is 6 months.

e. The appeals were made on ground 88(2)(a).

3. The development for which planning permission was refused is the change of use from residential to office use.

4. Your premises are a substantial 2-storey building with frontages directly to both King Street and Chapel Street and with an entrance from King Street into a courtyard garden which also contains a former stable in the south-east corner and a more substantial store building, apparently formerly an engine shed at the north-west boundary. The yard is partially surfaced with bricks to enable parking of vehicles and provides space for some 4 cars. There is a high wall separating the courtyard from Chapel Street and the eastern boundary with residential terraced dwellings is similarly screened. The adjoining former chapel building in Chapel Street is now apparently used by an electrical contractor.

5. The premises provide office and reception rooms although retaining a bedsitter at the basement level as well as the kitchen and bathroom on the first floor.

6. The council have instituted enforcement procedures and refused planning permission for the continuation of office use as representing the loss of a residential unit contrary to policies aimed at restricting commercial and office uses to an identified area around the centre of Tring and as being detrimental to the character of the locality and the amenity of the adjoining dwelling.

7. From my inspection of the site and surroundings and consideration of representations made it appears to me that a decision on your appeal under ground (a) and against the related refusal of planning permission turn on the extent to which the continuation of office use is likely to adversely affect the character of the locality having regard to both the amenity and traffic considerations and whether these aspects amount to issues of acknowledged importance within the terms of Circular 14/85.

8. The past use of the premises, at least in part, as an architect's office is not disputed although it is not clear to what extent a residential use was retained within the building. Nevertheless you maintain that your use of the premises for a business which does not entail delivery of materials has no adverse effect on the locality of the immediately surrounding area and you note the apparently acceptable commercial use of the neighbouring former chapel. It appears to me that there is no adverse visual impact stemming from your use of the premises, the building stands on its own and is not, in visual terms, linked to other buildings in residential use. It does appear that the use of the neighbouring chapel is likely to have a greater impact in terms of both the appearance and character of the area and traffic generation, and also because access to your own property does not necessarily entail entry into Chapel Street, a narrow although attractive one-way access to Western Road. Although older terraced property in King Street appears to be entirely in residential use and with a development of old persons' dwellings under construction at the south side it is my opinion that the situation of your property is such that it has no direct impact other than providing an attractive older building at the end of the street.

9. Although the Council has expressed concern at the potential loss of the garden area this is already used for parking although in an attractive manner retaining to some extent the appearance of a walled garden. Parking is not seen from adjoining dwellings and it is, in my view, practicable to retain a minimum of 4 or 5 parking spaces thereby avoiding any on-street parking at most times.

10. The Council are reasonably concerned to ensure that the limited supply of residential units remains available to meet the extensive demands upon the wider locality. Nevertheless the past use, at least in part, of the premises as offices was not apparently challenged. Having regard to the particular situation of the building and the adjoining use of the former chapel I do not consider that the introduction of a limited office use contrary to relevant policies of the District Plan, need of itself be considered so harmful as to justify refusal of planning permission. Although I understand the concern of local residents to maintain the residential character of this attractive older area within the town it does not appear to me that either aspects of amenity or traffic movements amount to issues of acknowledged importance within the terms of Circular 14/85. Your appeal on ground (a) and the related appeal against refusal of permission therefore succeed.

11. I have considered all the other matters raised but do not find any to be of such weight as to override the factors which have led me to my conclusion.

FORMAL DECISION

12. For the reasons given above, and in exercise of the powers transferred to me, I hereby allow your client's appeal under Section 88, direct that the enforcement notice be quashed, and grant planning permission for the change at 13 Chapel Street from residential to office use on the application deemed to have been made under Section 88B(3) of the Act. I also grant planning permission for the change of use from residential to office of your premises under ther terms of the application (Ref: 4/0618/86) dated 1 February 1986 and the plans submitted therewith.

DEPARTMENT OF THE ENVIRONMENT
TOLLGATE HOUSE
HOULTON STREET
BRISTOL
BS2 9DJ

RIGHTS OF APPEAL

(a) On an enforcement appeal (except any decision to grant planning permission on the deemed application under section 88B(3) of the Act)

An appeal against the decision given in the accompanying letter on the enforcement notice appeal may be made to the High Court on a point of law under the provisions of section 246 of the Town and Country Planning Act 1971. Any appeal must be made within a period of 28 days of the date of receipt of this letter (unless the period is extended by the Court).

(b) i. On a decision to grant planning permission on the deemed application under section 88B(3) of the Act
ii. On any appeal under section 36 of the Act

Section 245 of the Town and Country Planning Act 1971 provides that a person who is aggrieved by the decision given in the accompanying letter (on the appeal made under section 36 of the Act/to grant planning permission on the deemed application), may challenge its validity by an application to the High Court within 6 weeks from the date of this letter. The grounds upon which an application may be made to the Court under section 245 are that:-

1. the decision is not within the powers of the Act (that is, the Inspector appointed by the Secretary of State has exceeded his powers); or

2. any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

The "relevant requirements" are defined in section 245 of the Act: they are the requirements of that Act, the Tribunals and Inquiries Act 1971 (or any other enactment replaced thereby) and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. This includes the Town and Country Planning Appeals (Determination by Appointed Persons)(Inquiries Procedure) Rules 1974 (SI 1974 No 420); the Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 1981 (SI 1981 No 1743); and the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981 (SI 1981 No 1742).

A person who thinks there may be grounds for challenging the decision should first seek legal advice.

INSPECTION OF DOCUMENTS - Only on appeals decided following a local inquiry.

Under the provisions of rule 16(2) of the Town and Country Planning Appeals (Determination by Appointed Persons)(Inquiries Procedure) Rules 1974, and rule 16(5) of the Town and Country Planning (Enforcement)(Inquiries Procedure) Rules 1981, any person entitled to be notified of the decision given in the accompanying letter may apply to the Secretary of State, in writing, within 6 weeks of the notification of decision, for an opportunity of inspecting any documents, photographs and plans listed in the notification. Any application under this provision should be sent to the address from which the decision was issued quoting the Department's reference number shown on the decision letter and stating the proposed date and time (in normal office hours) for the inspection. At least 3 days' notice should be given, if possible.

RIGHT OF APPEAL AGAINST DECISION

13. This letter is issued as the 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 and Madam
Your obedient Servant

P D WALKER BA(HonsTP) MRTPI
Inspector

ENC