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1 SEP 1986

File Ref.

Refer to ... CPO 110

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1 MB
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Your reference		DSF/COX		TOWN AND COUNTRY PLANNING DEPARTMENT	
Our reference		T/APP/A1910/A/86/46738/P4		HEMEL DISTRICT COUNCIL	
Ref.	Date	29 AUG 86		Ack.	
C.P.O.	D.P.	D.C.	B.C.	Admin	File
Received		- 1 SEP 1986			
Comments					

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR JOHN COX
APPLICATION NO:- 4/1483/85

- I have been appointed by the Secretary of State for the Environment to determine your client's appeal against the decision of Dacorum Borough Council to refuse planning permission for the change of use of the first floor to offices at 9 High Street, Hemel Hempstead. I have considered the written representations made by you and by the council, and I inspected the area on 14 July 1986.
- The council raise no objection to the principle of the proposal, their refusal relates solely to the question of car parking. It is agreed that parking space is not available within the curtilage of the appeal building. From what I read in the representations and saw during my visit, I believe that consideration of the appeal falls into 2 parts, firstly the question of how many parking spaces, if any, are necessary as a consequence of the proposed change, and, depending on the outcome of this initial consideration, secondly whether or not the 2 spaces proposed would be satisfactory.
- No 9 High Street is a 2-storey building forming part of the shopping centre in the old town of Hemel Hempstead. The locality is a conservation area. The building's ground floor comprises a chemist's shop, dispensary and ancillary store-room. The upper floor is currently vacant. I understand that it was last used in part as an office for your client when he was the proprietor of the chemist's business below, and in the main to provide storage for the business. There are discrepancies within the appeal documents regarding the floor area of the offices which would be created. However, from the scale drawings submitted, I consider that the figure of about 70 m², implied in the council's representations, is a sound basis on which to assess the proposal.
- Prior to the application leading to this appeal, planning permission for the change of use sought had been refused in November 1983, February 1984 and again in September 1984. I understand that the last of these previous applications was favourably considered by the council's development control committee, subject to an agreement with the council whereby your client would make a commuted payment in lieu of parking provision. The council's policy committees declined to make the agreement, in the absence of a reasonable expectation that the council would in fact be able to provide additional car parking convenient to the site. However, in the expectation that planning permission would be obtained on this basis, your client had sold the premises on terms dependent on planning permission being obtained for the office use.

5. The present application is supported by the provision of 2 parking spaces, forming part of a parking area attached to a modern residential development, Cherry Bounce, a little less than $\frac{1}{4}$ mile away from No 9, just off the High Street.

6. The change of use sought here cannot be required to remedy an existing parking deficiency associated with the building - however desirable that might be as an objective - or disallowed for failing to do so. The parking which can be required for these offices is not necessarily that which could reasonably be needed for a newly built office of the same size, but only that needed to meet any additional parking generated by the change of use from the previous lawful use. On the evidence presented, this was predominantly storage. Inasmuch as the council's parking standards, which I believe are reasonable ones, require one parking space for the same floor area (35 m^2) of centrally located shops, small offices, industry, and warehousing, the change of use does not change the parking requirement - the deficiency for the upper floor was and would remain 2 spaces.

7. The matter is clearly not quite as simple as that. Firstly, warehousing is not entirely synonymous with storage for a shop, and in any event the council's parking standard for warehousing is more to anticipate possible changes to industrial use than because warehousing itself gives rise to the same need for parking as do the other uses. Considered not in terms of standards but from first principles, the calls on parking space in the locality resulting from the upper floor's past use depended very much upon the nature of that use. At 2 extremes, it depended on whether the storage was substantial and active - leading directly or indirectly to more people working at the premises - or conversely whether, *faute de mieux*, it was just to hold a little slow moving stock. Evidence is not presented concerning this. The onus rests with the council to demonstrate a clear cut objection to the change of use - initially to demonstrate that the office use would generate additional parking in the locality relative to the upper floor's past use - that I believe their evidence does not do. I therefore conclude that your client's appeal narrowly succeeds.

8. My conclusion is finely balanced because I agree with much of the council's argument. I could readily appreciate that parking is a problem around the High Street and, to the extent that the matter is raised in this appeal, I find no reason to question the council's reason for not accepting a commuted payment in lieu of parking provision. Furthermore the parking spaces at Cherry Bounce are existing ones, already in use, they are distant from 9 High Street and clearly relate to the housing development. I believe that it would be a retrograde step to require, by means of a planning consent, that 2 of the spaces there be made available to serve the proposed offices. I shall word my decision accordingly.

9. I realise that the council might be concerned by the implications of my decision, because they say that they have strictly applied their parking standards to other proposals at Hemel Hempstead High Street. My decision does not, however, call their standards into question, nor the council's ability to consider on their merits any future proposals in the locality which might attract additional parking. I have taken all the other matters raised into account but found them insufficient to cause me to alter my decision.

10. 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 of the first floor to offices at 9 High Street, Hemel Hempstead in accordance with the terms of the application (No 4/1483/85) dated 18 September 1985 and the plans submitted therewith and later, but excluding the parking spaces at Cherry Bounce, subject to the condition that the change of use hereby permitted shall be begun not later than 5 years from the date of this letter.

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

AJP

DACORUM BOROUGH COUNCIL

To J Cox
Pampard Kennells
Gaddesden Row
Hemel Hempstead
Herts

Pickworth & Company
37 Marlowes
Hemel Hempstead
Herts

..... Change of use of first floor to offices

.....

at ... 9 High Street, Hemel Hempstead

.....

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 18th September 1986 and received with sufficient particulars on 25th November 1985 and shown on the plan(s) accompanying such application..

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

Insufficient parking space is provided within the curtilage of the site to meet standards adopted by the local planning authority. It is considered that the parking spaces identified in the application are unsuitable in that they form an integral element of the parking provision for the residential development at Cherry Bounce and, additionally, are at such a distance from the proposed office as to be of little value in practical terms.

Dated 9th day of January 19 86 ..

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.