

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972

THE DISTRICT COUNCIL OF DACORUM

IN THE COUNTY OF HERTFORD

To Applicant:
Messrs. Mason & Morton Limited,
Frogmore Road,
Hemel Hempstead,
Herts.

Agent:
Wm. F. Johnson & Partners,
39A High St.,
Hemel Hempstead,
Herts.

.....Change of use from residential to office; two storey
.....rear extension, car parking, access, etc.
.....
at ...39 Queensway, 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 9.12.82 and received with sufficient particulars on 24.12.82 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 is in conflict with Policy 53 of the Dacorum District Plan wherein it is stated that planning permission for new offices or changes of use of existing buildings to offices will normally only be granted where the proposal is located within the commercial area of the town centres of Hemel Hempstead, Berkhamsted and Tring as defined on the Proposals Map.
- (2) The proposal would be likely to generate additional vehicular traffic into Heather Way which would interfere with the free flow and safety of traffic and pedestrians in the vicinity.

Dated 19th day of May 19 .. 83.

Signed..... 

Chief Planning Officer

NOTE

- (1) If the applicant wishes to have an explanation of the reasons for this decision it will be given on request and a meeting arranged if necessary.
- (2) 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 section 36 of the Town and Country Planning Act 1971, within six months of receipt of this notice. (Appeals must be made on a form which is 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.
- (3) 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 District 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
- (4) 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 169 of the Town and Country Planning Act 1971



Departments of the Environment and Transport

Eastern Regional Office

Charles House 375 Kensington High Street London W14 8QH

Telephone 01-603 3444 ext 73

8676

CHIEF EXECUTIVE

OFFICE Team 1

1 MAR 1984

File Ref.
Refer to
Cleared

Messrs Aitchisons
Chartered Surveyors
Commercial Department
63 Marlowes
Hemel Hempstead
Hertfordshire HP1 1LE

Your reference
PLANNING DEPARTMENT
NA/Bah
DACORUM DISTRICT COUNCIL

Our reference
Re (a) APP/A1910/A/83/005167
(b) APP/A1910/E/83/004039
C.P.O. Date C. C. Admin.
29 FEB 1984

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36 AND SCHEDULE 11
APPEALS BY MASON AND MORTON LIMITED
APPLICATION NOS: (a) 4/1525/82 and (b) 4/0016/83 LB

Received 1 MAR 1984
Comments Copy filed on 4/0016/83 LB

1. I am directed by the Secretary of State for the Environment to refer to your clients' appeals:

(a) under Section 36 of the Town and Country Planning Act 1971 against the decision of Dacorum District Council to refuse planning permission for the change of use of 39 Queensway, Hemel Hempstead from a dwelling to offices, and for the conversion and extension of the existing building;

(b) under paragraph 9 of Schedule 11 to the Act against the failure of the same Council to give a decision within the prescribed period on your clients' application for listed building consent for the above works.

2. The written representations made in support of the appeals and those of the Council have been considered. An officer of the Department has visited the premises.

THE APPEAL PREMISES AND SURROUNDINGS

3. The appeal premises are on the northern side of Queensway which is a thoroughfare leading eastwards from the town centre of Hemel Hempstead. They are at a location where the commercial uses of the town are beginning to peter out and residential uses are beginning to preponderate. The premises consist of a 2 storey building with rendered front and side walls and a brick addition at the back with single storey brick outhouses at the back of the addition. The front entrance is in the middle of the building, with entrance hall and staircase. There are reception rooms on either side of this with a kitchen behind the easternmost room. Upstairs there are 3 bedrooms and a bathroom. The building is being ruined by vandals. At the time of the inspection the front door had been smashed down, and the timber and cast-iron trellis porch with tented lead canopy which is in the list description and which is shown on the south elevation in the submitted drawing, had been pulled down. The handrail and balusters to the staircase and landing had also been ripped out. However the fire surround (of marble) mentioned in the list is intact.

4. The building stands on a bank which is approached by a ramp from Queensway. To the west is a block of modern flats partly facing Queensway and partly facing the western side of Heather Way which is a cul-de-sac running southwards up to the appeal property from George Street which is parallel with, and north of, Queensway. To the east of the appeal premises are 3 pairs of semi-detached 3 storey houses. North of the appeal premises and these houses are the grounds of a school, and these

grounds extend to the eastern side of Heather Way. On the eastern corner of the junction of Heather Way with George Street is a Victorian School which is being converted into offices. On the opposite side of Queensway to the appeal premises is a public house behind a forecourt and to the east of this are dwellinghouses facing Queensway. To the west of the public house, but separated from it by an alleyway, is an attractive early 19th century 2 storey double fronted house.

REPRESENTATIONS

5. On behalf of your clients you submit that in 1979 planning permission was given for the erection of a dwelling alongside the existing house. That permission could not be implemented because of difficulties with the owner of the adjoining land. The listed building was subsequently put on the market and having failed to attract a purchaser over a period of 6 months, it was offered to the present owner. The property was found to be in poor condition, requiring substantial renovation and it was considered that a more satisfactory form of development of the site as a whole would be to ignore the permission previously granted for a modern house, and to develop the site for offices. You have had discussions with the Council about the continued use of the property for residential development but have concluded that this would not be a viable proposition. The property requires total re-furbishment and is located only 300 yards away from the commercially zoned area of Hemel Hempstead in surroundings of mixed character on a main distribution road. The construction of the new dwelling immediately alongside the listed building would fragment the site and not enable the existing character of the listed building to be fully appreciated. On the other hand, the proposed car parking and other areas could be attractively landscaped in order to enhance the setting of the building. In your view the proposed development complies with Policy 6 in the approved Structure Plan, given that there is a potential local occupant and that the proposed use would ensure the continued life of a listed building. Policy 53 in the District Plan indicates a degree of flexibility in considering office proposals and you consider that such flexibility should apply in this case, as it has in the case of other listed buildings. So far as traffic generation is concerned you point out that there should not be conflict with the nearby Heather Way scheme since the office use would not take place at evenings and weekends when kerbside parking is most prevalent, whereas residential use of the premises could generate off-peak parking. In any event, most of the employees' vehicles could be accommodated on site. From Heather Way there is a pedestrian footpath and steps leading to Queensway, therefore offering residents a potential second means of access, rather than using the whole of Heather Way in order to achieve the town centre on foot. As regards the listed building appeal you understand that the Council have no design objection to the present proposals.

6. The Council submit that the proposal is in conflict with Policy 53 of the Dacorum District Plan which provides that new offices will normally only be permitted where the proposal is located within the commercial area of certain town centres including Hemel Hempstead. They also point out that Policy 6 of the Structure Plan does not in any way relate to the specific location of offices but rather to restrictions on occupancy where location is not an issue. Policy 6A states that the scale of provision for employment generating purposes will be in accordance with the control levels for each policy area. The appeal site is outside the commercial area delineated on the proposals map, and whilst the Council accept that there is a degree of flexibility in the interpretation of Policy 53, they are not convinced that the premises cannot continue to be used for residential purposes; in this connection they consider that the viability or otherwise of the house already permitted is irrelevant. They are not satisfied that all efforts have been made to retain the existing use. The two other listed properties referred to by the appellants were large country houses which had fallen into disrepair and for which further residential use was totally out of the question in economic terms. In relation to access and traffic generation, the Council maintain that conditions in Heather Way would deteriorate as a result of traffic attracted by any form of commercial development on the site. This is a cul-de-sac

only 16 ft wide serving a considerable amount of residential development, and on-street parking already leads to a considerable degree of congestion on occasions, to the general inconvenience of pedestrians using the route as a link to Queensway. In terms of design the Council do not wish to raise any serious objections and say that it is likely that if the principle of office development had been acceptable, the listed building application would not have been refused.

REASONS FOR DECISION

7. It is noted that the premises are in a poor state of repair and are subject to vandalism. In these circumstances, a major consideration must be the survival of the listed building. It is not considered that it has been established beyond all reasonable doubt that continued residential use in one or more units would not be feasible, but account has been taken of the failure to dispose of the premises when they were presumably in better condition than they are now, and their situation and surroundings. Although there is other residential development nearer to the commercial centre than the appeal building, most notably the modern flats fronting Queensway and Heather Way, it is considered that the surroundings are too unprepossessing and commercial for it to be a sought-after location for residential use at the price which would have to be paid for restoration. In these circumstances, it is not accepted that the continued use of the site for residential purposes would necessarily be in the best interests of the listed building.

8. The proposed office development would be contrary to Policy 53 of the District Plan since the site is not located within the commercial area of Hemel Hempstead Town Centre. However, it is within a short distance of the centre and the proposed development is of a size unlikely to result in any conflict with strategic policies or to create pressure for additional housing. Above all, the proposals do appear to offer a realistic prospect of ensuring the continued use of the listed building, and it has been concluded that, for these reasons, an exception to Policy 53 is justified in the particular circumstances of this case. So far as traffic generation is concerned, it is noted that Heather Way has footpaths on either side of the carriageway and that there is development only on the western side of the road. It is not considered that the additional traffic which would be attracted to the building were it to be used for offices would be material or that it would constitute a hazard to motorists or pedestrians sufficient to justify refusal of permission. It has accordingly been concluded that permission should be granted for the change of use of the premises to offices. Although there is evidence of a potential local occupier, it is not proposed to attach a condition naming the first occupant or specifying that future occupants shall be "local" firms, since it is considered that the proposed offices, being some 264 sq m in size, are unlikely to offer any attraction to large companies whose activities would be unrelated to the needs of the local community. Whilst it is recognised that this assumption may not always hold good, it is considered that it is difficult to justify the imposition of an occupancy condition on any new permission for offices of less than 300 sq m.

9. So far as the other matters are concerned, no reason is seen to refuse planning permission or listed building consent for the proposed works to the building to convert it into offices. As regards the proposed extension the design is not felt to be entirely appropriate. In particular, the windows would be of a different scale to those in the original building and the brick on the edge lintels and sills would form meaningless patterns and thus give a clumsy appearance. It is, however, accepted that the District Council would not have objected to the design had they considered it in the normal way and that such reservations as exist should be balanced against the urgent need to protect the building from vandalism.

FORMAL DECISION

10. Therefore the Secretary of State allows your clients' appeals and hereby grants:

(1) planning permission for the change of use of 39 Queensway, Hemel Hempstead from a dwelling to offices, and for the conversion and extension of the above premises in accordance with application No. 4/1525/82 dated 9 December 1982; and

(2) listed building consent for the conversion and extension of 39 Queensway, Hemel Hempstead to form offices, in accordance with application No. 4/0016/83LB dated 4 January 1983 and with drawings Nos. 1275/13/A and 1275/13/B.

subject (in both cases) to the following conditions:

(i) the change of use and works hereby permitted shall be begun not later than 5 years from the date of this letter; and

(ii) the brick on the edge lintels and sills of the windows of the extension hereby permitted shall not be provided.

11. Attention is drawn to the enclosed Note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

12. This letter does not convey any approval or consent required under any enactment, bye-law, order or regulation other than Sections 23, 55 and 56 of the Town and Country Planning Act 1971.

13. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

I am Gentlemen
Your obedient Servant

MISS A GERRY

Authorised by the Secretary of State
to sign in that behalf