



Appeal Decision

Site visit made on 30 August 2000

by J B Pybus DipTP MRTPI

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

The Planning Inspectorate
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Site

20 SEP 2000

Appeal Ref: APP/A1910/A/00/1044794

Site Address: 230 St John's Road, Boxmoor, Hemel Hempstead

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Castles Estate Agents against the decision of Dacorum Borough Council.
- The application ref: 4/01975/99/FUL, dated 15 November 1999, was refused by notice dated 21 December 1999.
- The development proposed is the change of use from shop (A1 Class use) to estate agents (A2 Class use) of ground floor of building only.

Summary of Decision: The appeal is dismissed

Main Issue

1. I consider that the main issue in this appeal is the effect of the proposal on the vitality and viability of the Boxmoor Local Centre.

Development Plan and other Planning Policies

2. The development plan includes the *Hertfordshire Structure Plan Review 1991-2011, 1998* and the *Dacorum Borough Local Plan, 1995*. Structure Plan policy 1 seeks to enable development to be carried out in accordance with the principles of sustainable development and policy 6 states that new development should be concentrated in specific settlements. Policy 17 aims to sustain and enhance the vitality and viability of Hertfordshire's town and local centres.
3. Policy 7 of the Local Plan establishes that within local centres in the main settlements of the Borough a mix of uses is sought and shopping is encouraged. Policy 34 establishes that in town and local centres a broad range of uses will be encouraged, but shopping will be a prime component. Policy 36 states that the main shopping hierarchy of these town and local centres will be strengthened by retaining local shops. Policy 38 provides that schemes which would reduce shopping floorspace in local centres will not be allowed, except to the extent permitted by policy 40. This policy states that in the larger shopping areas (over 8 shops) permission will not be granted for the loss of a shop use at street level unless three criteria are satisfied. These criteria are, (a) that 60% of the total frontage properties remain in retail use and an appropriate range of local shops remains, (b) the alternative use is appropriate to the commercial function of the area, and (c) non-retail uses are dispersed throughout the area.
4. The Local Plan is under review and the public inquiry into the *Dacorum Borough Local Plan 1991-2011 Deposit Draft* commenced in March 2000. Policy 7 of this emerging

15. For the reasons given above, I consider that the appeal should not succeed.

Formal Decision

16. In exercise of the powers transferred to me, I dismiss the appeal.

Information

17. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court within 6 weeks from the date of the decision.



INSPECTOR

Plan seeks a mix of uses in local centres and encourages shopping. Policy 38 corresponds to policy 34 of the adopted Local Plan and policy 40 aims to retain sufficient shops in both town and local centres. Policies 42 and 44 correspond with policies 38 and 40 of the Local Plan, with the criteria (a)-(c) in policy 44 remaining unchanged from Local Plan policy 40. In view of the similarity of the emerging Local Plan policies with those of the adopted Plan, I accord them considerable weight.

5. National planning advice is contained in Planning Policy Guidance Notes (PPGs). PPG6 *Town Centres and Retail Developments* states that local authorities should encourage a wide range of facilities in district and local centres, consistent with the scale and function of the centre, to meet people's day-to-day needs, so reducing the need to travel.

Reasons

6. The appeal premises are within the Boxmoor Local Centre as defined in both adopted and emerging Local Plans. Within the centre are some six groups of buildings on both north and south sides of St John's Road, predominantly in retail and commercial use, separated mostly by groups of dwellings. The appeal premises are within a central group of four premises on the north side of the road. Adjoining the appeal premises to the east is the appellant's existing estate agents office and to the west are a florist and hairdresser respectively. The appeal premises are currently vacant but were last used as a greengrocers shop. It is proposed that the ground floor would be used as an extension of the appellant's existing estate agency.
7. I consider that a key development plan policy in this appeal is policy 40 of the Local Plan, carried forward in policy 44 of the emerging Local Plan. With regard to criterion (a) of this policy, the Council calculates that of a total of 21 properties within the Boxmoor Local Centre to which the policy applies, there would be 12 retail and 9 non-retail uses with the appeal premises changing to a non-retail use. Retail uses are those uses within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987. This assessment assumes that one vacant property which has planning permission for a change of use from retail to a Class A3 use (Food and drink) is a non-retail use. The proportion of premises in retail use would be about 57%, and the Council calculates that the same percentage results if the frontage is calculated on the basis of the length of unit frontage, rather than the number of units. These figures are not challenged by the appellant.
8. I am satisfied from what I have seen and from the written representations that the appeal proposal would represent a use appropriate to the commercial function of the Local Centre and that non-retail uses are dispersed throughout the area. Criteria (b) and (c) of policy 40 are therefore satisfied.
9. It is clear to me that local centres such as Boxmoor need to retain a reasonable level of retail uses to retain their vitality and viability. Through policy 40 and criterion (a), the Council has established a percentage of properties to be retained in retail use in each centre in order to achieve this objective. Under Section 54A of the Town and Country Planning Act 1990, the determination of planning applications has to be made in accordance with the development plan, unless material considerations indicate otherwise. Policy 40, including its criteria, has been subject to the consultation and other statutory procedures associated with the adoption of the Local Plan and I consider

- that once the threshold is established it should be adhered to in specific cases, unless there are compelling reasons for not doing so. If permission was to be granted in this case, it would make it difficult for the Council to resist other proposals which resulted in a further reduction of the 60% threshold, both in Boxmoor and in other local centres.
10. The appellant has argued that policy 40 of the Local Plan is outdated and does not reflect economic and other changes in shopping patterns. It is further contended that PPG6 emphasises the need for local planning authorities to assess the need for change in shopping centres, to encourage a diversification of uses therein and to address situations where vacant office and retail premises seem unlikely to be reduced. I do not consider that the Local Plan policy 40, which aims to achieve an acceptable balance of retail and non-retail uses in local centres, is inconsistent with PPG6; the adoption of the Local Plan pre-dates PPG6 by about a year. Furthermore, it is significant that this policy has been carried forward without change into the review of the Local Plan, the subject of a public inquiry in 2000. I therefore cannot accord significant weight to these arguments.
 11. I have considered whether there are particular circumstances relevant to this appeal which would warrant allowing the proportion of retail units in the Boxmoor Local Centre to reduce to below 60%. I realise that the appellant company occupies the adjoining premises and I recognise the benefits of being able to achieve the necessary expansion of the estate agency in this way. However, it appears to me that other non-retail uses in Boxmoor, and in other local centres, could find it similarly advantageous to expand into an adjoining vacant shop, and this would have the effect of undermining the objectives of the policy. There is reference to the fact that the appeal premises have been vacant for some time, and are unlikely to be re-let for retail purposes, but I have no evidence of any unsuccessful attempts which may have been made to market the premises for retail use.
 12. The point is made by the appellant that other local centres are already below the 60% threshold, but this in my view does not invalidate the Council's attempts of resisting further reductions, or from avoiding local centres at present above the threshold from dropping below it. Reference is also made to the fact that the Council has already permitted a change of use from retail to Class A3 at No 218 St John's Road, but a calculation based on the Council's figures indicates that this decision took the proportion of retail premises still in retail use to about 62%, above the threshold.
 13. Finally, it is alleged that the Council has failed to take into account the material consideration of the new large superstores that exist within the towns of Dacorum Borough. However, in my view the importance of local centres and the need to retain their vitality and viability has not lessened as a result of the changes which these larger stores have made to the pattern of shopping behaviour. This is borne out by PPG6, issued well after most superstores which now exist had become established, and it recognises the valuable role which local centres perform and the need to protect them.

Conclusions

14. I conclude on the main issue that the proposal would result in harm to the Council's objectives for maintaining the vitality and viability of the Boxmoor Local Centre. It would conflict with Structure Plan policy 17, with policies 7, 34, 36, 38 and 40 of the Local Plan, with policies 7, 38, 40, 42 and 44 of the emerging Local Plan and with PPG6 guidance.

**Dacorum Borough Council
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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01975/99/FUL

**230 ST. JOHNS ROAD, HEMEL HEMPSTEAD, HERTS, HP1 1QQ
CHANGE OF USE FROM SHOP (CLASS A1) TO ESTATE AGENTS' (CLASS A2)
ON GROUND FLOOR ONLY**

Your application for full planning permission dated 15 November 1999 and received on 16 November 1999 has been **REFUSED**, for the reasons set out overleaf.

A handwritten signature in black ink, appearing to read 'Bin Bannard'.

Director of Planning

Date of Decision: 21 December 1999

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01975/99/FUL

Date of Decision: 21 December 1999

1. The proposal involves the loss of a shop which would result in the total frontage remaining in shop use in the local centre being reduced to below 60%. The development is therefore contrary to Policy 40 of the adopted Dacorum Borough Local Plan and Policy 44 of the Dacorum Borough Local Plan 1991-2011 Deposit Draft. The loss of a shop use in this location would lead to a further decline in the retail function and viability of the local centre.