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PLANNING DEPARTMENT DACORUM BOROUGH COUNCIL					
Ref.					Ack.
C.P.O.	T.C.P.M.	D.P.	D.C.	B.C.	Admin. File
30 JUL 1990					
Received					
Comments					

Your Reference:

Our Reference:

T/APP/A1910/A/90/148235/P2

Date: 27 JUL 90

Sir and Madam

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY NEWHARVEST PROPERTIES LIMITED
APPLICATION NO: 4/1990/89

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the failure of the Dacorum Borough Council to determine within the prescribed period an application for planning permission for the change of use of ground floor retail area from Class A1 to Class A2 at 207-209 High Street, Berkhamsted. I have considered the written representations made by you, the Council, and the Berkhamsted Town Council. I inspected the site on 4 July 1990. Since then I have taken into account your further representations dated 6 July 1990.

2. For the avoidance of doubt I wish to clarify that I regard the references to the Use Classes Order in the description of development as an appropriate way of defining the proposal. I also consider that the development would constitute a change of use. In this case the change would be from a use which has not commenced but is authorised by an extant planning permission. The proposed use has not commenced either. I shall therefore treat the application as having been made under Section 36 of the Act and not under Section 32 as suggested by the Council.

3. From my consideration of the written representations made, and having inspected the site and its surroundings, it is my opinion that the main issues in this appeal are; firstly, the proposal's effect on the vitality and viability of Berkhamsted Town Centre; and secondly, whether it would preserve or enhance the character or appearance of the Conservation Area.

4. The adopted Dacorum Local Plan is currently being reviewed. Although that review has only recently been published for public participation, Policy 39 provides up to date guidance regarding the effect of proposals on the vitality and viability of the Town Centre. It also pays due regard to the advice given in Development Control Policy Note 11. I therefore consider that it should be given significant weight in determining this appeal. The policy defines main shopping frontages and mixed frontages. The appeal property is situated in a mixed frontage, which corresponds with the secondary areas described in DCPN11. The policy defines the features to which regard will be paid when assessing the effect of a proposal on the attraction of the Centre.



5. The first features which the policy requires should be taken into account are the location of the property and its relationship to other parts of the Centre. The appeal property is directly opposite the main shopping frontage defined in the Review. However a very busy main road, High Street, separates them. When I inspected the site during the late afternoon the road could only be crossed at the light-controlled pedestrian crossing some 80m away. Even taking into account that there is a well-used bus stop near to the property, I consider that the extent to which shoppers are attracted to the other side of the road from the main shopping frontage is very limited. Nor do I believe that construction of the Kingsgate Centre would substantially increase interaction between the two sides of High Street.

6. Other features are the existing level of shopping and the distribution of non-shop uses. Shops predominate in the frontage to the west of the property. However, to the east three banks and a building society occupy a substantial proportion of the frontage. The advice in DCPN11 indicates that such uses are both a common feature in shopping areas and that they attract a significant number of callers. I do not therefore think that they constitute dead frontage which harms the vitality of the centre. Nevertheless, I consider that frontage to be relatively unattractive to shoppers because it contains few window displays. I believe that, unless the appeal property had a display window, it would increase that lack of attraction. This could be dealt with by attaching an appropriate condition to any permission.

7. The property is within the Berkhamsted Conservation Area. Section 277(8) of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Policy 39 provides that visually prominent premises will be retained as shops. The appeal property has been well-designed and is a pleasant feature in the Conservation Area. However, I do not consider that it is any more prominent than nearby buildings. I regard the character of the area in which the appeal property is situated as that of a secondary shopping area within a small but thriving town centre. In my opinion a condition requiring a window display would ensure that the property contributed to preserving both this character and the appearance of the area. I do not believe that it will enhance either of those features. Nor do I believe that would be reasonable to expect such a small-scale change of use to do so. I have also taken into account all the other matters referred to in the representations but do not find that they override my decision.

8. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use of ground floor retail area from Class A1 to Class A2 at 207-209 High Street, Berkhamsted. in accordance with the terms of the application (No 4/1990/89) dated 28 November 1989 and the plans submitted therewith, subject to the the following conditions;

1. the development hereby permitted shall be begun not later than 5 years from the date of this letter;
2. a window display shall be provided and thereafter maintained.

9. The developer's attention is drawn to the enclosed note relating to the requirements of the The Buildings (Disabled People) Regulations 1987.

10. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971.

I am Sir and Madam
Your obedient Servant

A handwritten signature in cursive script that reads "W J Weeks". The signature is written in dark ink and is positioned above a short horizontal line.

W J WEEKS ARICS
Inspector