

TOWN & COUNTRY PLANNING ACTS, 1971 and 1972



DACORUM BOROUGHS COUNCIL

To
R J M Rickaby
26 Lower Kings Road
Berkhamsted Herts

Change of use from shop to office
.....
.....
at 26 Lower Kings Road Berkhamsted Herts
.....
.....

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 30.11.88 and received with sufficient particulars on 15.12.88 and shown on the plan(s) accompanying such application.

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

There is inadequate provision for vehicle parking within the site to meet standards adopted by the local planning authority.

Dated sixteenth day of March 1989

Signed *W. B. B. B. B.*

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.



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PLANNING DEPARTMENT
 DACORUM BOROUGH COUNCIL

PLANNING DEPARTMENT
 DACORUM BOROUGH COUNCIL

2 MAR 1990

Your reference
 File
 Our reference
 Date

T/APP/A1910/A/89/135339/P7

28 FEB 90

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY MR R J M RICKABY
 APPLICATION NO:- 4/2259/88

1. As you know I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Dacorum Borough Council to refuse planning permission for the change of use from shop to offices of the ground floor front part of 26 Lower Kings Road, Berkhamsted. I have considered the written representations made by you and by the council and also those made by interested persons. I inspected the site on 31 January 1990.
2. From my inspection of the site and its surroundings and the representations made I consider the main issue for me to determine in this case is whether the proposal would result in increased traffic congestion and a road safety hazard.
3. The appellant conducts an office business on the ground floor rear and upper floors of 26 Lower Kings Road, and it is proposed to extend this to the whole of the premises by incorporating an area at the front of the ground floor presently used as a shop. The relevant floor areas as stated in the application for consent, unchallenged by the council, are for the present office use 237 sq m gross, and for the proposed addition 35 sq m. The council apply a car parking standard for offices within this size category of one space per 35 sq m gross floorspace, they take the view that on this standard the enterprise would require 8 spaces instead of the 6 available, and this deficiency makes the scheme unacceptable.
4. It seems to me that the council's standard is soundly based, and that it is reasonable, in the interests of avoiding congestion and traffic hazards, for businesses such as the appellant's to make due provision for the car parking they generate. I say that having observed particularly on inspection that the appeal premises are located within a busy town centre, where there is pressure for parking. However, although parking standards offer useful guidance as to what might represent due provision, I do not consider a realistic assessment can or should depend on arithmetical calculation alone. In this case, the extent of the suggested deficiency could be said to depend on whether it is reasonable for fractions of a whole number to be rounded up rather than down as the guidelines provide, and it is also proper to take into account that the proposal might be said to generate an extra parking requirement of one space, rather than 2. In the context of a business enterprise where there must be some fluctuation from time to time in parking demand, either on different days or during the course of the same day, that seems to me insufficient to demonstrate such a likelihood of the proposal causing real harm to traffic conditions as to warrant a refusal.

5. An objection to the scheme has been lodged by interested persons, though not by the council, also on the ground that the shop use should be retained. The council have supplied details of vacant retail floorspace in the town, and of a proposed major new shopping development, and in the light of those figures I have concluded that there is no likelihood of any shortage of shopping floorspace occurring in the town in the near future such as to warrant the reservation of the appeal premises for this purpose.

6. The premises are in a conservation area, and so I have considered whether the proposal would be likely to preserve or enhance the character or appearance of the area. A change of use is proposed, without structural alterations, and my assessment is that it would be quite neutral in terms of changing the area, having no impact for better or worse in this respect. Indeed the council make no observations on the point. To that extent it would help to preserve the character and appearance of the area, and would therefore be acceptable, in my view.

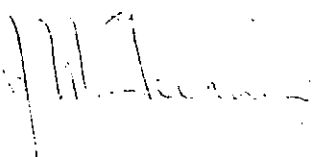
7. I have considered all other matters raised in the case, but I have found no other serious obstacle in the way of granting consent and so I decide accordingly. The council suggest in this eventuality that a condition be imposed in effect preventing the use of the appeal premises separately from the remaining part of the appellant's premises. To the extent that such a subdivision would not be subject in any event to planning control that seems to me an unreasonable restriction and so I shall not adopt the suggestion.

8. 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 from shop to offices of the ground floor front part of 26 Lower Kings Road, Berkhamsted in accordance with the terms of the application No 4/2259/88 dated 30 November 1988 and the plans submitted therewith, subject to the condition that the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter.

9. The developer's attention is drawn to the enclosed note relating to the requirements of 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. Your attention is drawn to the provision of Section 277A of the Town and Country Planning Act 1971 (inserted into the Act by the Town and Country Amenities Act 1974) as amended by Paragraph 26(2) of Schedule 15 of the Local Government Planning and Land Act 1980 which requires consent to be obtained prior to the demolition of buildings in a conservation area.

I am Sir
Your obedient Servant



J M TURNER LLB Solicitor
Inspector