C/1204/MB/P

cm

5553

Department of the Environment and Department of Transport

Common Services

Room1417 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct line 0272-218 927

Switchboard 0272-218811

GTN 2074

Messrs Chestertons
66/68 Seymour Street
LONDON
W1H 5AF

Your reference
CBOC/PM
Our reference
T/APP/X5210/A/86/45928/P2
Date
15 AUG 86

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY PARBRIGHT INVESTMENTS LIMITED
APPLICATION NO: PL/850/775

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 London Borough Council of Camden to refuse planning permission for an extension at fifth floor level to provide 2 self-contained flats at Goldhurst Mansions, 7-19 Goldhurst Terrace, London NW6. I have considered the written representations made by you and by the council and also those made by other interested persons. I inspected the site on 30 June 1986.

2. From my inspection of the appeal premises and surroundings and the written representations made I consider the main issues to be firstly whether or not your clients' proposal is overdevelopment of the appeal site and secondly the effect on the amenity of the other residents.

3. The appeal property is situated on the east side of Goldhurst Terrace close to its junction with Finchley Road in a mainly residential area adjoining the Finchley road shopping area. The premises comprise of ground floor shops with 4 floors of self-contained flats above and a fifth floor of box rooms. There is a small garden at the rear and a side entrance to the garden. There is a lift for 4 persons serving the existing flats.

4. On the first issue, you state in Appendix C of your letter of 19 June 1986 that the existing density is 153 habitable rooms per acre and that your clients' proposal would increase this to 195 rooms per acre and that this would not be over-development as it is council policy to permit higher densities in certain condition, which you consider are applicable in this case:

a. in the Central Area;

b. at locations within easy walking distance of:

i. the major shopping centres;

ii. the more important public transport facilities (the Finchley Road underground station and frequent London Transport Bus Services);

c. where the need for compactability with the existing character of the area and the scale and nature of the adjoining development dictates a high density;

d. where the accommodation is not intended for families with children.

You also consider that the plot ratio of 2.6:1 is well within the margin of 3.5:1, which is the maximum desirable plot ratio for mixed Residential and Non-Residential Development in Clause 15.2(a) of the Environmental Code.

5. The council drew attention to Section 2.17 of the Written Statement of the District Plan which indicates that a density of between 70 and 100 habitable rooms per acre may be permitted with a plot ratio range up to 0.8:1. The council considered that the proposed flats would be suitable for families and that your clients' proposal did not meet the criteria necessary to allow higher densities, and that the change in plot ratio from 2.08:1 to 2.41:1, which is about 3 times higher than considered appropriate by the council would result in overdevelopment.

6. I accept that the appeal premises are within the central area and within easy walking distance of a major shopping centre and public transport facilities but I do not consider that your clients' proposal is within the criteria which would permit an increase in density as there is no need to make the appeal premises compatible with the existing character of the area and that the proposed accommodation is not intended for families without children. In my view the existing building is already compatible with the character of the area and the existing and proposed flats are of a suitable size for occupation by families. I consider that your clients' proposal would result in an overdevelopment of the appeal site and be contrary to the aims and objectives of the approved District Plan to control residential densities.

7. On the second issue, you consider that the existing services are adequate, that the entrance hall is amply generous, that the lift is suitable, that any inconvenience to residents during works of conversion would be minimised by the use of the side doors and garden area for access for plant and materials, that no scaffolding would be erected around the building and that the owner will undertake to indemnify the residents for any damage or loss casued throughout the works.

8. The council consider that your clients' proposal would place an undue burden on existing services and loss of amenity. This view is shared by the existing residents.

9. I can understand the considerable fears of the existing residents about the temporary loss of amenity during the period of the proposed works but I accept that your clients would make effort to cause as little inconvenience as possible. I consider however that the increased use of the lift and of the stairs by the occupiers of the proposed flats would result in increased noise and inconvenience and that there would be a loss of residential amenity for the occupiers of the existing flats.

10. I have had regard to Circular 14/85 that there is always a presumption in favour of development but in this case there is demonstrable overdevelopment and loss of residential amenity. I have also taken into account all other matters raised in the written representations including County Court Orders to obtain possession of fifth floor rooms, leases indicating the right of the landlord to construct additional flats in the roof space, the temporary use of the fifth floor by a caretaken some years ago, that each of the existing flats are occupied by only one person, and that no increase in floor area is contemplated and that statutory means of escape in case of fire will be provided but these matters do not outweigh the considerations that led to my decision.

11. For the above reasons and in exercise of the powers transferred to me, I hereby dismiss your appeal.

I am Gentlemen
Your obedient Servant

J H WHITFIELD ARICS
Inspector

Department of the Environment
2 Marsham Street
LONDON SW1P 3EB

Under the provisions of Section 245 of the Town and Country Planning Act 1971 a person who is aggrieved by the decision given in the accompanying letter may challenge its validity by an application made to the High Court within 6 weeks from the date when the decision is given. (This procedure applies both to decisions of the Secretary of State and to decisions given by an Inspector to whom an appeal has been transferred under paragraph 1(1) of Schedule 9 to the Town and Country Planning Act 1971.)

The grounds upon which an application may be made to the Court are:-

1. that the decision is not within the powers of the Act (that is the Secretary of State or Inspector, as the case maybe, has exceeded his powers); or

2. that any of the relevant requirements have not been complied with, and the applicant's interests have been substantially prejudiced by the failure to comply.

"The relevant requirements" are defined in Section 245 of the Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 or any enactment replaced thereby, and the requirements of any order, regulations or rules made under those Acts or under any of the Acts repealed by those Acts. These include the Town and Country Planning (Inquiries Procedure) Rules 1974 (SI 1974 No. 419), which relate to the procedure on cases dealt with by the Secretary of State, and the Town and Country Planning Appeals (Determination by Appointed Persons) (Inquiries Procedure) Rules 1974 (SI 1974 No. 420), which relate to the procedure on appeals transferred to Inspectors.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

HMSO Bd 348501/3