

WHITE HALL S.W. 1.

Victoria 890 (1) M^r Scammell

(2) M^r Atter

16th October, 1958.

TP 80749

676/0620/1078

Vic
B...
A

Gentlemen,

Town and Country Planning Act, 1947. Section 16
Appeal relating to No. 50, Balaise Lane, Hampstead

1. I am directed by the Minister of Housing and Local Government to say that he has considered the report of his Inspector, Mr. J. E. Saldier, M.C., F.D., B.Sc., M.I.C.E., following the local Inquiry into the appeal made by Witch's Children Limited against the refusal of the London County Council to permit the use of the basement of No. 50, Balaise Lane, Hampstead as a club.

2. No. 50, Balaise Lane, Hampstead is one of a terrace of four-storied houses, fronting straight on to the pavement, which are situated on the north-west side of the lane between its junctions with Balaise Place and Balaise Crescent. The basement and the ground floor are being used as a coffee bar and restaurant and the three upper storeys as individual flats to which access is obtained along the north-west side of the coffee bar. The basement is completely below ground level on three sides and receives light and air from a sunken area 10 feet wide by 11 feet long on the north-west side, which has a W.C. in one corner. The kitchen and servery are at the rear of the ground floor, and access to the basement is obtained by means of steep narrow stairs at the southern corner of the ground floor restaurant just inside the gateway to the lane.

3. At the Inquiry the main points made in support of your clients' appeal were that:-

- (i) The premises, which had previously been used as a fishmonger's shop, had been leased to their secretary by the Church Commissioners for a period of 20 years from 1937 at a rental of £225 per annum. The lease provided for the use of the ground floor and basement as a coffee bar only, which these days included a restaurant, and the London County Council had raised no objection when the premises were gutted and converted to a coffee bar and restaurant and opened to the public in September, 1957.
- (ii) The ground floor was open from 10.30 a.m. to midnight whilst the basement was only open from 7 p.m. to midnight. They served 100 to 150 customers every night.
- (iii) They held a conditional licence for music in the basement from 7 p.m. till 11 p.m. on weekdays subject to no percussion instruments or amplifiers being used, and a pianist, a guitarist or a trio played there on three or four nights a week. There was also a radio receiver and a tape recorder on the ground floor. The premises were adequately insulated, so little noise was heard outside, and no complaints had been received from the Public Control Inspectors.
- (iv) No intoxicating liquor was sold on the premises, and the question of whether or not a liquor licence would be granted for the proposed club did not arise, because the sale of liquor was strictly forbidden by the Church Commissioners.
- (v) The Appellants' aim had been to obtain the patronage of local residents, students and professional people. This had been achieved at the outset but unfortunately the character of the customers had changed and many undesirable were attracted who made themselves objectionable and caused a nuisance with their noisy motorcycles.

James, Mansfield, Dodson and Gillman,
15, Abchurch Lane,
London, E.C. 4.

(vi) The

- (vi) The proprietors did not like this development; nor did the neighbours, and various methods had been tried, such as imposing "cover" and "minimum" charges for the use of the basement bar, but this had not deterred the undesirable characters. There was little trouble on the ground floor because it was wide open to public view and the great attraction appeared to be the basement.
- (vii) The present proposal, therefore, was to use the basement as a dining club. No structural alterations would be required and the only outward difference would be a sign "Members Only" at the head of the stairs. Exactly the same facilities would be provided and the club would be served from the same kitchen on the ground floor. Members would pay an entrance fee of about 2s. 6d. and the proprietors would be able to pick and choose the members and no-one else would be admitted to the basement.
- (viii) It was likely that the club members would use cars, which were less noisy than motorcycles, and the maximum number of cars present on any one evening was likely to be more than a dozen because the maximum number of members the basement could hold was 32.
- (ix) The Appellants wished to reduce the noise disturbance and to bring back their original good-class customers and in their view the formation of a dining club would achieve that object.

4. For the London County Council it was stated that:-

- (1) The appeal premises were situated in an area zoned for residential purposes with a shopping frontage to Belsize Lane in the Administrative County of London Development Plan.
- (ii) The Council had considered that the change of use from a fishmonger's shop to a coffee bar restaurant was a change within Class I of the Schedule to the Town and Country Planning (Use Classes) Order, 1950, which did not involve development.
- (iii) The proposed change of use of the basement from use as a coffee bar restaurant to use as a club, however, involved a change of use from Class I to Class XVII of the said Schedule, for which permission was required.
- (iv) The Council had refused permission because it was their experience that the establishment of social clubs in residential areas was undesirable. They had considerable adverse effect on the amenities of such areas, not only by reason of noise emanating from within the building but also by reason of the slamming of car doors and engines starting when members left the club late at night.
- (v) There were no arrangements for parking the members' cars off the street, so that they would be parked in the road outside obstructing the access to nearby properties.

/(vi) All the

(vi) All the local residents, including those in the properties on either side of No. 50, who had been consulted by the Council had indicated that they were against the proposal.

(vii) The Council were of the opinion that the establishment of a club would not result in any reduction in the disturbance now caused to the area. The present coffee bar and restaurant were intrusive and noisy and the addition of a dining club could only intensify the existing noise and nuisance caused.

5. Evidence was given on behalf of the Hampstead Metropolitan Borough Council, and six local residents, in support of the London County Council's refusal to grant permission for a club in the appeal premises.

6. The Inspector in his report to the Minister pointed out that the objections of nearby residents were directed mainly to the noise and disturbance caused by the existing coffee bar/restaurant as it functioned at present. He did not think that a dining club would tend to increase this nuisance, but rather that it would be more likely to result in some abatement of it. He recommended that the appeal be allowed.

7. The Minister notes that the present use of the basement has given rise to complaint and that the Appellants themselves agreed that there has been cause for complaint. He accepts their intention that the proposed change of use should lead to a reduction in the nuisance caused by noise and he has given full weight to the Inspector's conclusion that this objective would be achieved. Nevertheless, the Minister has been impressed by the weight of opinion against the proposal expressed at the Inquiry by neighbouring residents and on behalf of the Hampstead Metropolitan Borough Council as well as the London County Council. The Minister is satisfied that a club would be out of place in the appeal premises, surrounded as they are by premises in residential occupation. He is satisfied that approval to such a use is not justified and that the proposed change of use would not result in the mitigation of a nuisance which could be caused by the existing premises.

8. Accordingly the Minister has refused the appeal and this decision is his final decision.

9. A copy of the Inspector's report will be supplied if a request for it is made to the above address within one month from the date of this letter.

I am, Gentlemen,
Your obedient servant,



A. E. HICKINBOTHAM

Authorised by the Minister
to sign in that behalf.