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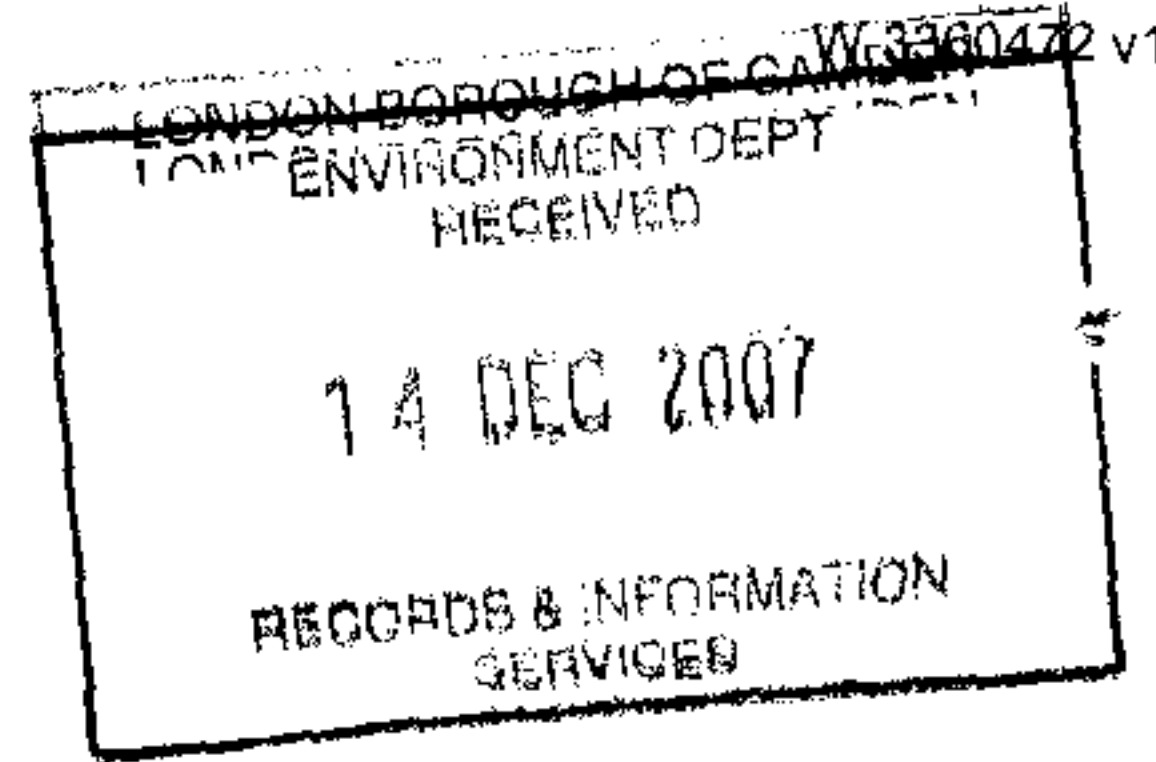
RadcliffesLeBrasseur

Planning Department
London Borough of Camden
Camden Town Hall
Argyle Street
London
WC1H 8EQ

11 December 2007

Our Ref: TRS/MD/113826.001

Your Ref:



Dear Sirs

Planning Application to change the use of 135 Finchley Road, London NW3 from an A3 use to a B1 use

We act on behalf of The Elbow Room Management Company plc, which owns 135 Finchley Road and enclose the relevant copies of a planning application for the change of use for those premises to become an office (B1) use, together with an application fee. Since this is a planning application purely for a change of use, we have not enclosed a Design and Access Statement.

Location

135 Finchley Road is situated towards one end of the Finchley Road, Swiss Cottage town centre. The area at this point is just beginning to change character from a residential area to a commercial one. North bound traffic can make a choice between travelling north on the Finchley Road or up Fitzjohns Avenue. The Swiss Cottage roundabout, however, is a five lane roundabout where traffic tends to be heading in most directions. The area becomes progressively more of a town centre as one travels north towards Finchley Road station. No parking is possible in the vicinity of 135 Finchley Road although there is some parking availability to the rear in a residential area.

Within the parade of shops to the north of the site, only two are for food and drink uses, these being Costa Coffee and MacDonald's. In the smaller parade to the south there are two units out of six (Kentucky Fried Chicken and a Thai restaurant). On the other side of the road there are several restaurants with 11 A3 uses out of 33 shops in total. Additionally there is the Old Swiss Cottage public house in the middle of Swiss Cottage and the North Star public house opposite the junction of Fairfax Road and Finchley Road. There appear to be no vacant units on either side of the road.

Therefore the area is well supplied with A3 uses.

Premises

135 Finchley Road is a distinguished house building designed by Douglas Stephen for original tenants being Barclays Bank in the 1960s. In many ways it is the fore runner of other highly regarded modern buildings in the area, for instance, the extension to the Central School of Speech and Drama designed by Jestico & Whiles and the Hampstead theatre designed by Rab Bennett. It is a very prominent building fully visible to Finchley Road traffic and pedestrians. Its design clearly does not incorporate any display



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windows and as we refer to later, this design constraint has undoubtedly been a factor which has governed the use of the building. It has a basement, a lower ground floor, an upper ground floor and a first floor. Two photographs of the premises showing its proximity to Swiss Cottage Underground Station and Finchley Road are enclosed.

History

A planning consent reference PL/9500303 was given on the 19 May 1995 from a bank use within class A2 to a café/bar class A3.

Operation since 1995

The premises opened shortly after May 1995 as the Cube Bar operated by the Mean Fiddler Group. The Elbow Room Management Company Limited (since made into a public plc company) purchased the premises in 2001 by which time it was trading only for three to four nights a week and performing poorly. It traded for two years, but made substantial losses during that time.

In 2003 it was sublet to an experienced operator who had built up a chain of bars. Despite increasing the capacity and extending the hours, he could not make a viable business and sold his lease to Irish Venture Capital Plc. This company went into administration in 2006 and vacated the premises in September 2007 owing to substantial arrears.

For the last two years it has traded only on Friday and Saturday nights. Since the original consent was granted and the ensuing changes have occurred to the Use Classes Order, it is arguable that the use has moved away from a café/bar effectively to a nightclub. It is difficult to imagine that this was in the contemplation of the planners at the time of the original consent.

In February 2007 residents and Councillor Roger Freeman objected to a variation of a Licence relating to noise outbreak from the premises, and noise disturbance from people exiting the premises and other anti-social behaviour. We enclose a relevant minute of Licensing Panel A of 12 February 2007.

Constraints of the Site

Our client suggests that the following factors have contributed to the lack of viability of the site for the purposes to which it has been put:-

- It is at one end of the town some way from the other leisure uses.
- It is not near to parking.
- It is on a five lane highway roundabout.
- The physical appearance of it does not embody display windows and this makes it difficult to perceive.
- Its proximity near to residences and near to residential parking does not make it a good neighbour.
- There is considerable competition for licensed premises in Camden, West Hampstead and Kilburn.
- The small trading floors also make it difficult to operate efficiently.

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The Proposal

Our clients would like the premises to operate as offices and believe that the site would operate far more successfully in such use. The following factors are important:-

- Employees and visiting clients of the offices not travelling by car, would be travelling to Swiss Cottage or Finchley Road stations. Those stations are very near and in the case of the former, there is an entrance to the station next door to the premises.
- Those who would travel by car would park at car parking facilities such as the NCP car park.
- The absence of display windows would not act as a disadvantage
- The design of the building might be particularly attractive to certain businesses such as designers and architects.
- The premises could facilitate about 52 employees. A design of premises which also demonstrates its internal layout is attached.

Policies and their Relevance

The area in the town centre is covered by chapter 6 of Camden's Unitary Development Plan.

Paragraph 6.5 advises that there are suitable locations for entertainment uses "*provided they do not have a harmful effect on the amenity of neighbours*".

Paragraph 6.6 reminds us that the character of the area is affected amongst other things by the effect and style of the buildings. The distinctiveness of the appearance and indeed constraints of its design are important when looking at the application of this policy.

Paragraph 6.11 advises us on the vitality and viability of centres and mentions the increasing demand for licensed premises and food and drinks premises. It also advises in addressing such centres that "*the Council will allow changes in the mix that ensues to the continued vitality and viability*". Paragraph 6.6 also advises on the mix and advises that "*the cafes, restaurants, takeaway hot food and licensed entertainments are most appropriately located in commercial areas to minimise the impact on residential amenity*".

Policy R3 signifies the concern which the Council has over residential amenity and advising that planning permission may not be granted. In addressing the considerations to which the council will have regard it mentions a range of criteria, such as the effect on nearby residences, noise, the effect on nearby shopping etc.

Paragraph 6.27 admits that the entertainment uses can sometimes damage centres where residential amenity is adversely affected.

This thrust is repeated in paragraph 6.31 where it is acknowledged that residential amenity can be adversely affected.

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Policy R7 advises that *“planning permission will not be granted if it will cause harm to the character, vitality and viability of the centre”*.

Paragraph 6.43 advises that the various uses will not be appropriate in every town centre. It encourages comparison and convenience shopping. It will be noted that 135 Finchley Road is unsuited due to there being no shop front and poor access for deliveries. It advises on the importance of financial services. 135 Finchley Road is unlikely to be attractive to banks, estate agents etc., as they tend to favour open shop fronts. This may indeed be one of the reasons why Barclays vacated the unit. So far as the food and drink uses mentioned within this section are concerned, again these appear to have been unsuitable. Insofar as health centres are concerned, again, the space is unsuitable. As to other uses Camden library is just over the road. This would leave public offices and places of worship, theatre (the space would appear to be unsuitable) and other leisure facilities.

Policy R8 advises that B1 is suitable for upper floors in town centres. The raised floor in 135 Finchley Road is in fact half way to being an upper floor and certainly there is no view into the building from the street, apart from small windows to the lower ground floor which are currently blocked. It is to be noted under this policy that the Council strongly objects to the removal of any shop fronts. Again, this proposal does not propose that.

Policy E1 advises that the Council will grant permission for office development in locations accessible by a choice means of transport (to minimise car use). This particular site is immediately adjacent to one of the entrances to Swiss Cottage tube station, and adjacent to several bus routes. Similarly there is an NCP car park further into the town centre.

Paragraphs 7.33 and 7.34 contain the Council's advice on the creative and environmental industries and paragraph 7.33 states that Camden is keen to attract creative industries. It may well be that this unit would be attractive, for instance, to firms such as architects or designers.

Supplementary Planning Guidance for Finchley Road/Swiss Cottage: Retail Food and Drink and Entertainment Uses published February 2006

This document very much favours retail and is wary of changes to A3. It is particularly negative on late night uses (page 10, para. 3.15 refers) suggesting that any new A3/A4 application is likely to be subject to a condition on hours, limiting them to 11.30 pm Sunday to Thursday and 12 midnight on Friday and Saturday. The Guidance shows a keen awareness of the potential for A3/A4 uses to have a detrimental impact on residential amenity.

The consultation statement with regard to this document also reflects the strength of feeling from local people on the suitability of such activities.

Summary

- The site has not for location and design reasons traded viably.
- Its activities are not compatible with the nearby residences.
- The loss of this unit for entertainment purposes would not harm the Town Centre.

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- Its use for office purposes would be far more appropriate as well as being well located for sustainability purposes.

Please do not hesitate to contact us for any clarification.

Yours faithfully



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Encs.

*Please note that, in addition to the standard bank holidays, our
office will also be closed on Monday 24 December 2007 and Monday 31 December 2007.
May we take this opportunity to send you our best wishes for the season.*