

Office Report

Officer: John Davies

Application Number : PS9804205

Address: 24 Cambridge Circus and 84-86 Charing Cross Road WC2.

Proposal: Variation of additional condition 2 of planning permission granted on appeal dated 25 November 1996 (ref.APP/X5210/A/96/267628) which restricts use of the premises to restaurant only to allow use of the premises as a cafe bar.

Drawing Numbers: 98-675/01,02

RECOMMENDATION SUMMARY: FP

OFFICER REPORT:

1. SITE

1.1 The site comprises the ground floor and basement of a number of buildings located facing Cambridge Circus with frontages also to Charing Cross Road and Shaftesbury Avenue. The premises are vacant on these floors and were last occupied for retail purposes, which is the lawful use.

1.2 Surrounding uses comprise office uses over 24 Cambridge Circus, 117-119 Shaftesbury Avenue and 84 Charing Cross Road. There are flats over 86 Charing Cross Road which are part of a larger mansion block comprising 23 flats known as Trentishoe Mansions. The rest of the street block comprises predominantly retail uses on ground floor with office uses over.

1.3 The site adjoins the borough boundary with the City of Westminster. The site comes within the Bloomsbury Conservation Area.

2. PROPOSAL

Original

2.1 A planning application has been submitted on behalf of All Bar One to Vary additional condition 2 of planning permission granted on appeal which restricts use of the premises to restaurant use only to allow use of the premises as a cafe bar by All Bar One.

2.2 It should be noted that nos.117-119 Shaftesbury Avenue are not part of this application and are likely to be occupied by a separate A3 use.

replies:

I have not been in a position for the
the report is not clear, only
the report is not clear, only
the report is not clear, only

3. RELEVANT HISTORY

3.1 On the 6 June 1996 planning permission was refused by the Council for change of use and conversion of the ground floor and basement of 24 Cambridge Circus, 84-86 Charing Cross Road and 117-119 Shaftesbury Avenue, WC2 from retail use within Class A1 to two restaurants within Class A3 together with associated alterations for the following reasons:

1. It is considered that the loss of retail floorspace in this location would be contrary to Council policies as expressed in the Borough Plan (SH21) and the draft Unitary Plan (SH15) in that:

(a) The proposal would involve a loss of retail facilities to the detriment of local residents, workers and visitors to the area.

(b) The proposal would involve the loss of the last retail outlet in Cambridge Circus to the detriment of its mixed use character and that of the surrounding area.

(c) The Council has not been satisfied that the proposed restaurants would not cause unreasonable nuisance to nearby residents by reason of noise and smell.

3.2 An appeal had been lodged against the Council's failure to determine the application on the 3rd June before the Council's decision was issued. On the 25 November 1996 the Planning Inspector's decision was issued upholding the appeal.

C. D. F. 10

4. RELEVANT POLICIES

Borough Plan:

Borough Plan policy **HG12** states that there will be a general presumption against further restaurant, wine bar, club or similar uses in close proximity of residential uses except where sufficient steps can be taken to control noise, fumes, refuse etc.

Draft UDP:

Draft UDP policy **HG8** states that the Council will not normally permit the establishment of further A3 uses in close proximity to residential uses and that an exception may be made where sufficient steps can be taken to control noise, fumes etc.

The Inspector's Report on the Public Local Inquiry into objections to the Deposit Draft Unitary Development Plan was published in January 1997. Over the last year the Council has been considering the Report's findings and preparing modifications to the Draft UDP which will then be formally agreed at Committee and published for statutory consultation. In the meantime, the Inspector's Report and Environment Committee reports on further proposed amendments to policy constitute material planning considerations to be taken

into account alongside the Council's Draft UDP policies and the policies contained within the statutory Borough Plan. The Inspector generally supports the Council's policies to protect residential amenity but recommends that policy HG8 be deleted as being duplicitious and more appropriate in the Shopping chapter. He recommends that policy SH24 be amended to include reference to the number and distribution of A3 uses and the need to avoid a cumulatively harmful effect in terms of loss of retail, traffic, parking and local residential amenity. This has been agreed by the Council as a modification to the UDP on deposit.

5. CONSULTATIONS

5.1 Statutory Consultee Comments

None

5.2 Conservation Area Advisory Committee Comments

None

5.3 Local Group comments

Covent Garden Community Association strongly object to variation of condition as proposed use is likely to have detrimental impact on quality of life of adjoining residents. Condition limiting use to only restaurant means that alcohol will only be consumed ancillary to meal. Restaurant use is far less noisy and disruptive than a bar or public house. Concerned about impact of All Bar One use in respect of loud pre-recorded music, premises could accommodate up to 420 patrons (seated and standing), impact of noise in the street at closing time from inebriated customers, opening hours are restricted by licence and may be extended by Government in future.

5.4 Adjoining Occupiers	Number Notified	33
	Replies Received	24
	Objections	24
	In support	00

18 signed proforma objections raised to another large drinking house in this location and that Inspector only granted permission for A3 use on basis that it wouldn't be a bar, cafe bar, wine bar or public house. Concern about increased noise and disturbance especially from people leaving licensed premises at night

6. ASSESSMENT

6.1 The main issue in this application is whether the alteration of the Inspector's condition, which restricts the use of the premises to restaurant use only, in order to allow a cafe bar use, would be likely to result in undue noise and disturbance for adjoining residents.

I think we need a few words here about what a cafe bar means in terms of activity and sort of people

6.2 It is first necessary to examine the details of the Inspector's decision followed by the applicants' submissions before reaching conclusions on this application.

6.3 The **Inspector's decision** was based on consideration of two main issues- the impact of a loss of retail floorspace and whether the proposed restaurants would cause significant harm to the amenities of residents in Trentishoe Mansions, with particular regard to noise, smells and general disturbance.

6.4 On the first issue, the Inspector concluded that new restaurant use would be compatible with the character of the area and loss of shops would not unduly inconvenience local residents. With regard to the issue of amenity, the Inspector considered the impact of noise carried through the building and felt that this could be controlled by conditions requiring adherence to Council standards. Extraction of kitchen smells was proposed internally with terminals at roof level. The Inspector considered this to be satisfactory. With regard to general disturbance, the Inspector noted that the restaurants could cater for up to 400 people. He concluded:

"This would be a considerable number of people flowing into and out of the building and were this a reasonably quiet location I accept that the noise of people arriving and leaving could be unreasonably disturbing to local residents. However, this is a busy area, seemingly active late into the evening."

6.5 The Inspector goes on to conclude, based on the applicants' proposed opening hours of midday to midnight, that

"Taking account of the busy nature of Charing Cross Road, I consider that operating within these hours would not give rise to unacceptable disturbance to local residents, particularly as the two entrances points.... would be furthest from the residential premises above."

6.6 The Inspector concluded that restaurant use was acceptable subject to conditions to control noise, disturbance and smells and to limit the opening hours. He went on to say:

"I accept that there is the potential for considerably greater disturbance to local residents were the premises to turn into another type of A3 use."

6.7 The Inspector, consequently, imposed a condition restricting the A3 permission to restaurant use only. In addition to this condition the Inspector imposed conditions restricting audibility of music, restricting hours to between 0900-2400, entrances only to be to the Cambridge Circus or Shaftesbury Avenue frontages, details of schemes to control smells and fumes, scheme to control noise levels from the restaurant and service corridor, scheme to control noise and vibration from the extract ventilating system and a noise level condition.

6.8 The applicants' submissions in support of their application are as follows:

- But more people will use the premises as a general lounge, not a restaurant?*
- * the proposals are smaller in scale from those determined on appeal and comprise only the ground floor of 24 Cambridge Circus and 84-86 Charing Cross Road for public areas and the basement for ancillary facilities. Only 130 covers are shown on the plans (cf.400 in the appeal scheme). They suggest a condition is imposed to restrict the public bar areas to the ground floor only. The applicants figure takes no account of the separate use of 117-119 Shaftesbury Avenue for A3 use, where submitted plans for a restaurant use indicate 93 covers.

- * the premises would be open shorter hours than those approved in the appeal scheme ie. 9am-23.20pm MON-SAT and 9am-22.30pm on Sundays.

- X*
- * The All Bar One use is considered to be a good neighbour use and have built up this reputation through the operation of other bars in the chain trading in the Westminster part of Covent Garden, Chiswick, Crouch End and Fulham Road. Altogether there are around 30 outlets in the chain across the country. The good neighbour reputation they argue is based on the exclusion of particular amenities typically found in many pubs. Each outlet does not include juke boxes, amplified foreground music, live music or sports events screening. Moreover, each cafe/bar controls entry into the premises in the interests of maintaining good order and keeping out those who may be likely to cause trouble. The applicants point to the appeal decision allowing their Covent Garden outlet at Henrietta Street/Bedford Street in June 1997, where the Inspector following a visit to one of their premises was satisfied that the use would not cause a loss of amenity from noise in the street associated with patrons leaving the premises. They also point to an appeal decision in Kensington and Chelsea, where an Inspector felt that in a busy mixed residential/commercial area the use would be acceptable in amenity terms. The Inspector indicated; " I inspected another All Bar One and gained the impression that it is a relatively subdued operation that is not likely to cause serious problems in the locality."

- * The company are willing to have a personal permission to restrict the use to only All Bar One only.

6.9 It is considered that a very compelling submission has been made to amend the restaurant-only condition from a company which appears to have ~~developed~~ a reputation for running well-managed and orderly cafe/bars throughout central London. A case has been made which seeks to distinguish this use from a typical public house operation, which the residents living in Trentishoe Mansions are clearly concerned about. CGCA are opposed to this application and contend that this use will be more likely to generate noise and

Do you agree? If I am asked who the reputation is, what about the...

disturbance than a similar sized restaurant use. Whilst this is probably likely with a typical public house, the issue is whether this particular use would be likely to result in undue noise and disturbance.

6.10 It is possible to treat All Bar One as a special case and amend the condition for their benefit only by means of a personal use condition. This means that if they were to vacate the building the original condition would be restored limiting the use to restaurant only and giving the Council control over any new alternative A3 use.

6.11 This is a busy, noisy location acknowledged as such by the Inspector where street noise could be generated by a number of existing pubs, wine bars, restaurants in the immediate vicinity. The entrance to the use would be on the corner facing Cambridge Circus and there is an existing condition restricting any entrances in Charing Cross Road which could generate noise immediately below windows to flats in Trentishoe Mansions. Patrons leaving the premises at closing time would have 6 directions to go in from Cambridge Circus and only one of which would take them past Trentishoe Mansions.

6.12 The condition restricting A3 use to restaurant use only was imposed by the Inspector in view of concerns about the impact of certain A3 uses on amenity notably noisy pubs. If such uses were proposed the Council would have to consider their impact. This application is for a proposed use which on a crude scale of amenity impact appears to fall somewhere in between a restaurant use (perceived low impact) and a public house (perceived high impact).

6.13 In view of the busy nature of the area described above but also bearing in mind the presence of residential uses, it is considered that the nature of the proposed use would not be likely to result in undue noise and disturbance in the street.

7. LEGAL COMMENTS

8. RECOMMENDATIONS

Condition(s)

1. This permission shall be personal to All Bar One during their occupation and shall not enure for the benefit of the land. On their vacating the premises the use shall revert to restaurant use only within Class A3 of the Town and Country Planning (use Classes Order) 1987 as (amended).

2. None of the basement area shall be used as bar or seating areas.

3. No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.(CG04)

4. The use hereby permitted shall not be carried out outside the following times 09.00-23.30 hours on Monday to Saturdays and 0900-2230 hours on Sundays.(CG01)

5. No tables and chairs shall be sited on the forecourt area in front of nos.84-86 Charing Cross Road.

Reasons for Conditions

1. In granting this permission the Council has had regard to the special circumstances of the case and wishes to have the opportunity of exercising control over any subsequent use in the event of All Bar One vacating the premises.(DF04)

2. In order to avoid over-intensification of the use to the detriment of amenity.

3. To safeguard the amenities of the adjoining premises and the area generally.(DG01)

4. To safeguard the amenities of the adjoining premises and the area generally.(DG01)

5. To safeguard the amenities of the adjoining premises and the area generally.(DG01)

1. You are advised that condition 4 means that no customers shall be on the premises and no activities associated with the use, including preparation and cleaning up, shall be carried out otherwise than within the permitted time.(IE08)