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Your reference
JVB/DDS
Our reference
APP/4408/A/62061, 61962
Date
16 October 1972

Sir

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36
(FORMERLY SECTION 23 OF THE 1962 ACT)

1. I am directed by the Secretary of State for the Environment to refer to your company's appeals against the decisions of the Council of the London Borough of Camden to refuse planning permission for 2 proposals for the erection of a shop and offices on land at 39-43 Leather Lane, EC1.

2. The written representations made in support of the appeals and those of the Council have been considered. An officer of the Department has visited the site which comprises a corner plot of the west side of Leather Lane which has a return frontage to the north side of Baldwins Gardens and lies about 300 yards north of Holborn. The northern part (No. 39) fronting Leather Lane is occupied by a 4-storey building, comprising a confectionary shop at ground floor level, the floors above being used for stock storage. Nos 41-43 comprise a single-storey dress shop, the structure above having been demolished. To the north of the site is a part 5, part 6-storey office block; there is also a 5-storey block of offices on the opposite side of Leather Lane and an extensive 3-storey office block to the south of Baldwins Gardens. West of the site, beyond a partly grassed, partly paved amenity area is a 5-storey block of flats, and to the north-west is a large residential building undergoing modernisation. Market stalls restrict the traffic flow in Leather Lane; the carriageway width of Baldwins Gardens is about 10 ft widening to about 15 ft west of the site where considerable vehicle parking takes place.

3. The two appeal proposals are substantially similar. It is understood that the only difference is that one proposal involves the straightening of the back western boundary of the site, which would mean the acquisition from the council of a strip of grassed area some 2 ft 6 ins wide and 10 ft long.

4. It is noted that both appeal proposals incorporate a ground floor shopping use which accords with the provisions of the Initial Development Plan. It is considered that the two main points at issue are (a) whether the proposals would result in serious overdevelopment of the site or infringement of daylighting standards; and (b) whether the use of the upper floors as offices could be accepted as an exception to the provisions of the approved Initial Development Plan, in which the site is zoned for primarily residential purposes, and as an exception to the general policy which seeks to restrain the growth of offices in Central London.

5. On the first point, while the proposals exceed the plot-ratio standard it is not thought that this in itself is a serious objection, having regard to the existing development in the vicinity of the site and to the rather small site area involved.

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 may be, 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 1969 (SI 1969 No 1092), 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 1968 (SI 1968 No 1952), which relate to the procedure on appeals transferred to Inspectors.

The right to make an application under section 245 as a "person aggrieved" is limited to the appellant or applicant (as the case may be) and persons whose legal rights have been infringed. The local authority who are directly concerned with the case are given a similar right of appeal.

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

On daylighting, the infringement appears to affect only the adjoining recreation area; the 5-storey block proposed, with sheer western face, would it is thought dominate this amenity space and impose a massing effect on the outlook from the housing block beyond. This objection might however be met by stepping back the western elevation as well as the eastern one (and this might also help to meet the plot-ratio objection).

6. As to the question of office policy, careful consideration has been given to the arguments for permitting offices in this location, including the submissions to the effect that the site is unsuitable for residential development; that there are several blocks of offices nearby and the area is predominantly commercial in character; and that there is an unsatisfied demand for suitably sized units of office accommodation from small firms connected with the local trade in precious stones. It is accepted that, while the area is allocated primarily for residential use in the approved development plan, Leather Lane is a busy street market with a largely commercial frontage including several office buildings. However, it is not considered that development of the site with a building containing residential accommodation on upper floors would be particularly inappropriate: the area immediately to the west is predominantly residential in character and there is no reason to think that it is likely to become less so. There is evidently a demand for offices which it is important to satisfy, from specialist trades in the area, but on the evidence before the Secretary of State it seems possible that there are ways of meeting this need without conflicting with approved policies.

7. In the circumstances it is not thought that there are sufficiently special circumstances to justify an exception to policy in this instance.

8. Therefore the Secretary of State hereby dismisses the appeals.

I am Sir
Your obedient Servant

J C LIPPARD
Authorised by the Secretary of State
to sign in that behalf