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Rec. No 1295-AUONE
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DEPARTMENT
1- AUG 1983

CAMDEN

Messrs Lickfolds, Wiley and Powles
7 Upper Brook Street
Grosvenor Square
LONDON
W1Y 2BX

Your reference

LES/JS

Our reference

T/APP/5008/A/83/2002/PE1

PLANNING AND COMMUNICATIONS
DEPARTMENT
CAMDEN
-3 AUG 1983

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 56 AND SCHEDULE 9
APPEAL BY YOUR CLIENT MR M A BHATTI
APPLICATION NO:- 5/8119/1

1. I have been appointed to determine your client's appeal against the refusal of the London Borough of Camden to permit the change of use of the basement and ground floor of No 37 Great Queen Street, WC2 to use as a restaurant. I held an inquiry into this appeal on 7 June 1983.
2. Great Queen Street is dominated by the huge Freemasons Hall opposite the appeal premises. On that side of the street, apart from the Connaught Rooms, the buildings are mostly in office use but at the Kingsway end there are a few shops. The north-west side of the street, by contrast, contains a mixture of offices, restaurants, public houses, 2 schools and some shops. The appeal building is 4-storeys high. The basement and ground floor which comprise the appeal premises are vacant. The first floor is in use as a design studio while the upper 2 floors are in residential use. There is a separate entrance and staircase from the street leading to the 3 upper floors of the appeal building. There is little sign of any other residential use in the street. Nos 36 and 23 are vacant, at least at ground floor level. Great Queen Street connects Drury Lane with Kingsway and there is busy 2-way traffic in the street all day. Roadside car parking is regulated by parking meters.
3. In the council's view, the proposed development would be contrary to the policies and intentions of the Covent Garden Action Area Plan which, since its adoption in 1978 has been the statutory local plan for the area in which the appeal premises lie. In my view therefore this appeal depends initially upon whether your client's proposal would necessarily be contrary to any of the policies and intentions of the Action Area Plan. If that is so, then I think the appeal depends on whether the particular circumstances of this case warrant an exception being made or, in accordance with the advice contained in paragraph 2 of Circular 22/80, upon whether any clear planning purpose would be served by preventing the development.
4. For your client it was urged that Great Queen Street is not identified as a shopping street in the Covent Garden Action Area Plan (Document 3, Plan B7/1). Since the plan was adopted in 1978, there has been considerable economic regeneration in the area and this has resulted in a concentration of commercial activity around the central market piazza some 300 m south of Great Queen Street. The appeal premises are on the northern fringe of the action area where the main shopping

street identified in the plan is Drury Lane. In Drury Lane there are a number of local shops including 2 supermarkets. There are also a number of vacant premises there indicating that at present there is no demand for more local shops. Nearby redevelopment for residential purposes will incorporate provision for local shops to serve new dwellings. As for the appeal premises, the ground floor has been empty since September 1980 and the basement for many years. No interest has been shown by any retailer in re-establishing a shop here. The ground floor of the appeal premises was last used as a confectioners but even then only the front part of the ground floor was the retail sales area, the rear part being used for storage. Great Queen Street is not predominantly a shopping street but rather one of very mixed character. The proposed development therefore would have no effect on the existing situation. A restaurant use is acknowledged in the plan (paragraph B.7.31) as one that would make a significant contribution to the economic vitality of the area, not only in serving local residents and workers and the evening theatre trade, but by creating local employment and by attracting visitors to the area from Britain and overseas. The policy contained in paragraph B.7.35 is normally to prevent change of use from retail shop to restaurants, especially in shopping streets, but Great Queen Street is not a shopping street. The policy goes on to say that new restaurants would normally be permitted in the action area especially along a theatre entertainment route, but again Great Queen Street is not a theatre entertainment route. The appeal premises therefore lie in an area where, according to local circumstances, a mixed use policy should be adopted. In the same paragraph of the plan major uses are classified according to certain priorities and restaurants fall into Class B described as not inappropriate but approval will depend upon scale and exact location. Under the circumstances, it would not be contrary to the spirit and intention or the policies of the plan to permit the proposed development.

5. Against this the council's main point is that the appeal premises and Great Queen Street are not in a preferred location (ie an entertainment route) for the establishment of a new restaurant. Furthermore, although Great Queen Street is not identified as a shopping street in the Action Area Plan, the shopping policies of the plan are aimed at maintaining adequate local shopping facilities for the working and resident populations and halting the general decline in shop units evident over recent years in the area generally. In particular there has been an erosion of local shopping facilities to meet everyday needs. This inflicts considerable hardship in a community such as Covent Garden, where a high proportion of existing residents are elderly and less mobile (paragraph B.9.6 of the plan). Accordingly the stated policy (paragraph B.9.8 of the plan) is normally to safeguard shop and service use. There is therefore a general presumption against the change of use of an existing shop to restaurant or any other use. The appellant has not demonstrated any need for a restaurant to outweigh this general presumption. Shops are classified in paragraph B.1.9 of the plan as the 'most appropriate' use and as having a greater priority than restaurants which while 'not inappropriate' are less desirable than shops from a land use point of view in the action area. The fact that the appeal premises have been empty for some time need not be because there is no demand for a shop to be reopened there. It could be because too high a rent is demanded by the owner of the premises. The council have consistently refused planning permission in recent years for change of use of the appeal premises to use as a wine bar and as a restaurant. The number of retail and service outlets fell by 30% between 1968 and 1975 and the decline in the number of food shops was the greatest of all. There is a persistent need for more shopping facilities in the area and that need can be expected to grow as new housing schemes bring increases in the resident population of the area. The vacant premises in Drury Lane and Great Queen Street at the moment is not evidence that there is an over-provision of retail units in the

area. A number of these premises appear to be vacant only because they are currently undergoing refurbishment. The council also consider that those nearby residents who have replied to the letter of notification about the inquiry are reasonably concerned about the possibility of noise and smell nuisance if a restaurant became established in the appeal premises. Appropriate conditions however relating to fume extraction, the playing of live or recorded music and hours of opening could give reasonable protection if this appeal were allowed.

6. In my opinion, the Covent Garden Action Area Plan very reasonably abandons the rigid zoning principle in seeking to achieve its land use proposals. The proposals map (page 7 of the plan) only defines those sites or traffic and pedestrian routes which are committed to change of a specified nature and those areas where specific development control policies are to operate (paragraph B.1.1 of the plan). Elsewhere there is to be a mixed use approach to development control. The advantage of this is that every single case is to be considered on its merits and in its immediate context as local character varies widely from street to street (paragraph B.1.3 of the plan). Great Queen Street is neither on an entertainment route nor is it a shopping street as defined in the plan, accordingly I take the view that the proposed development is not necessarily contrary to the plan but should be considered on its merits and in its immediate context.

7. Although therefore on the first issue I find that the proposal is not necessarily contrary to the policies and intentions of the plan it is still necessary to consider the other issues identified in paragraph 2 above. So far as the circumstances are concerned I take the view that the appeal premises have remained empty probably because they are remote from a recognised shopping centre and, according to market forces, are not in an ideal position to attract trade. I think the length of time that has elapsed since the premises were used as a shop is long enough to test whether this is a transient situation or not. I acknowledge that redevelopment nearby will result in an increase in the resident population of the area but I think it unreasonable to expect shops to become established in advance of demand. I think it more reasonable to permit the proposed change of use which according to the Action Area Plan is the next highest priority use class for those areas where strict policies do not apply. It follows in my view that to prevent the proposed development would not serve any clear planning purpose. As for the nearest residents to the appeal premises, I think the design studio on the first floor of No 37 will provide considerable insulation from noise but I accept the council's suggestions that conditions regarding opening hours, fume extraction and loud music are reasonably necessary.

8. I have taken into consideration all the other points raised at the inquiry including the 30% reduction in the number of retail and service outlets in the area between 1968 and 1975. Since then however on the council's own admission there has been a very considerable increase of economic activity including the establishment of many new shops albeit in the central market area and I do not think that point or any other outweighs the importance of the factors that have led me to my decision.

9. For the above reasons and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for the change of use of the basement and ground floor of No 37 Great Queen Street, WC2 to use as a restaurant in accordance with application No 5/8119/1 dated 6 September 1982 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun not later than the expiration of 5 years from the date of this letter;

2. the restaurant hereby permitted shall not be open to the public before 0800 hours or after 2359 hours on any day;

3. before the development hereby permitted shall be begun details of a scheme for the extraction of fumes and smells shall be submitted to the local planning authority for approval and shall be implemented;

4. before the development hereby permitted shall begin details of a scheme for sound-proofing the premises to the reasonable satisfaction of the Local Planning Authority shall be submitted to them for approval and the scheme, as approved, shall be implemented.

10. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

11. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

12. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971. Your attention is drawn to the provision of section 277A of the Town and Country Planning Act 1971 (inserted into the Act by the Town and Country Amenities Act 1974) as amended by paragraph 26(2) of schedule 15 of the Local Government Planning and Land Act 1980 which requires consent to be obtained prior to the demolition of any building in a conservation area.

I am Gentlemen
Your obedient Servant



J R RICHARDSON LLB Solicitor
Inspector

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