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Your reference

FJY/KM

Our reference

T/APP/X5990/A/89/116184/P7

Date

- 3 APR 90

Sir

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY G R E PROPERTIES
APPLICATION NO: PT/TP/19999

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Westminster City Council to refuse planning permission for a variation to the planning permission dated 20 May 1988 (reference PT/TP/10724) to provide for a licenced betting office in part of the basement with an entrance through the ground floor off Chichester Rents on the site at 79-87 Chancery Lane, 8-24 Bishops Court, 1-17 and 2-12 Chichester Rents, London WC2. I held a local inquiry into the appeal on 13 and 14 June 1989.

2. This appeal concerns a variation to a comprehensive redevelopment scheme which was granted conditional approval on 20 May 1988 under reference PT/TP/10724. That scheme involves partial demolition, refurbishment behind retained facades, construction of a new basement, ground floor with 5 floors over to provide shops, offices, light industry (workshops), a wine bar and 9 No self-contained flats. I am concerned only with considering the proposed variation of part of this scheme and therefore the remainder of the development, including all the conditions appended by the Council, stands unaltered.

3. I am aware that there is a Section 52 Agreement linked to the current planning permission for the site. This agreement may affect the implementation of any revisions to the original project. The third reason for refusal which specifically refers to the Section 52 Agreement was withdrawn by the Council at the inquiry.

4. It became evident during the inquiry that certain matters were no longer in dispute. These were:

a. that a betting shop was an appropriate use within this part of Chancery Lane;

b. that the development, including the appeal site, was not within the Special Industrial Area as defined in Policy A52 of the Deposited Westminster District Plan; and

c. that no alteration would occur to the number of shops proposed within the overall development. The Council conceded that, although variations had been made to the ground floor layout, the shops to be provided would remain at 18 in accordance with Condition 4 of the planning permission.

I visited the site on Monday 12 June 1989 and observed that construction work was in progress. The main skeleton frame was erected and the ground floor areas were protected by hoardings. The appeal premises front directly onto Chancery Lane while to the rear are the grounds of Lincoln's Inn. The development is located in an office/commercial area mainly related to the legal profession. Due to the state of the building works, both parties agreed that a formal site visit would be irrelevant as it would be impossible to view the basement floor area in the context of the appeal proposed.

6. Bearing in mind the above, the evidence presented at the inquiry and the written representations made, I am of the opinion that the main issue in this appeal is whether the loss of retail and workshop space would be detrimental to the balance of the overall development.

7. The Structure Plan for Greater London is the Greater London Development Plan (approved in 1976). In addition, there is the City of Westminster District Plan (adopted 1982) and the Altered District Plan which was approved for deposit in August 1988. Both District Plans reflect the strategic policies as set out in the GLDP. At the inquiry, the Council confirmed that the Altered District Plan would remain the principal planning document pending the introduction of the Unitary Development Plan. It seems to me that the Altered District Plan importantly updates policy, particularly by taking into account the changes effected by the 1987 Use Classes Order. Therefore, I consider that, in the context of this appeal, it should be accorded significant weight in reaching my decision.

8. The Council are concerned that your proposal would result in a loss of retail frontage within the proposed shopping arcade; in support they quote paragraph 8.18 of the adopted District Plan and paragraph 8.24 of the Altered District Plan. As the Council accepted that there would be no reduction in the number of shops, the point of difference rests on the amount of frontage required to enable an entrance area to be formed within the shopping mall. Your proposal indicates that about 2 m would be needed to provide an adequate access to the basement. In my opinion, the introduction of this small element into the shopping frontage would be de minimis and the vitality of the proposed arcade would not be seriously jeopardised. I consider that an attractive entrance would complement the shopping complex and add to the diversity of potential uses within the overall scheme.

9. A betting shop has operated within the development site for 25 years but was omitted from the approved comprehensive proposals as the operator's intentions were now known at that time. There is an authorised use in 87 Chancery Lane (approved in December 1988). However, as I heard at the inquiry, these premises are at first floor level where security was questionable because access is shared with other users of the building. I accept that security is an important consideration in betting shops and in my opinion a basement location would enable your clients to control this aspect to a more acceptable degree.

10. The Council did not dispute that betting shops are an appropriate use in shopping areas, and in my view your proposal would comply with the policy of providing 'mixed frontages'. The ground floor layout of the redevelopment scheme indicates 18 shops and 3 workshop/studio areas. In addition 2 wine bars would be located in the basement. In my view, the inclusion of a betting shop within the overall development would not lead to an over concentration of service use as the indicated shops should ensure that retail outlets dominate the new arcade.

11. The Council are also concerned that your proposal involves the loss of light industrial/workshop space within the basement. In particular, the retention of

Shop floor area is covered by the Section 52 Agreement. The Council also that this space was put forward by your clients originally as part of overall package involving planning gain in support of the increased office space proposed in the redevelopment proposals. Previously the site contained some 26,000 sq ft of office area, about 13,000 sq ft of light industrial floor space and approximately 11,000 sq ft of derelict industrial space. You argued that under the 1987 Use Class Order all these areas, including the derelict floor space, should be considered as Class B1. The approved redevelopment scheme includes some 61,000 sq ft of office space supported by other planning gains of residential units and the refurbishment of retained facades.

12. You maintained that light industrial space was not quoted in the GLDP as a planning gain and therefore should not be introduced as such by the Council. Policy 4.29 of the Altered District Plan sets out planning advantages with residential accommodation being given priority; industry is to be given priority in traditional industrial areas. To my mind, Chancery Lane is not traditionally associated with industry and I consider that the provision of workshops on this site to be advantageous only in that they add to the overall diversification.

13. There is a conflict between the District Plans and the interpretation of Circular 13/87, particularly with regard to the B1 category in the 1987 Use Class Order. In my view, the Council had good reason to distinguish between the B1 office use and B1 light industrial use in this case. However, if the proposed variation were to be allowed, the 3 workshops are retained and therefore a planning advantage, albeit reduced in area, would be achieved. In my opinion, the loss of approximately 14% of workshop floor space would not prejudice the Council's objectives for this site. I consider that the total planning advantage achieved in the comprehensive development scheme to be such that this small reduction in allocated floor space would be acceptable.

14. To summarise, I consider that the small loss of frontage in the proposed shopping area would not seriously alter the potential character. I have also decided that the 14% reduction in workshop space would be acceptable in terms of the other planning advantages achieved in the redevelopment scheme. I therefore conclude that your proposal would not be detrimental to the balance of the overall project.

15. The Council are concerned that any approval would create pressure on the remaining light industrial/workshop space. In my opinion, any further alteration would be judged on its merits in the light of relevant policy. The Council would retain control under planning legislation including the Section 52 Agreement. In reaching my decision, I have borne in mind that a betting shop has formed part of the character of Chichester Rents for many years; the inclusion of your proposal within the new scheme would in my view correctly maintain its presence on the site. You suggested at the inquiry that the present use of the first floor premises in 87 Chancery Lane could revert to offices. However, I consider that any future use of your client's existing floor area is not a matter before me at this time.

16. Conditions requested by the Council included the formation of a window display in the ground floor entrance. I believe this to be acceptable as it would help to safeguard the appearance and character of the new shopping area. This also accords with requirements as set out in the Altered District Plan (paragraph 8.1). I also consider that a restriction to Class A2 would provide an element of residential control for the future.

I have carefully considered all other matters raised both at the inquiry in the representations but have found no other factor to outweigh my conclusions that your proposal would not result in a serious loss of workshop floor space to the detriment of the overall development.

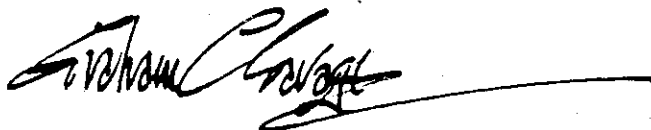
18. For the above reasons, and in exercise of the powers transferred to me, I hereby allow this appeal and grant planning permission for a variation to the planning permission dated 20 May 1988 (reference PT/TP/10724) to provide for a licenced betting office in part of the basement with entrance through the ground floor off Chichester Rents on the site at 79/87 Chancery Lane, 8-14 Bishops Court, 1-17 and 2-12 Chichester Rents, London WC2 in accordance with the terms of the application (No PT/TP/19999) dated 1 August 1988 and the plans submitted therewith, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this letter.
2. A shop window display shall be maintained at all times within the ground floor entrance to the basement premises.
3. The basement and ground floor areas shown on the plans as occupied by a betting shop shall be used for this purpose only and for no other purpose (including any other purpose in Class A2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987).

19. 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 consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period. The developer's attention is drawn to the enclosed note relating to the requirements of The Buildings (Disabled People) Regulations 1987.

20. 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 buildings in a conservation area.

I am Sir
Your obedient Servant



G C SAVAGE DiplArch(Hons) ARIBA MSAI
Inspector

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