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Common Services

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ALLOWED

H12/30/C

8401789

Reg 1649



Courage Limited
Thames North and Anglia Region
Brantwood Road
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LONDON
N17 0EE

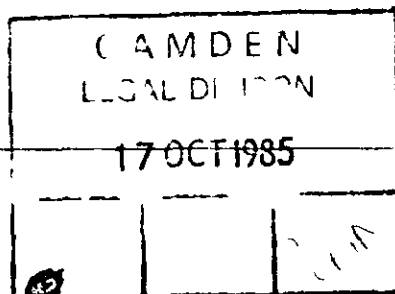
Your reference
RJS/DMH

Our reference

T/APP/X5210/A/85/029099/P7

Date

15 --



Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971 SECTION 36 AND SCHEDULE 9
APPLICATION 10 - PL/8401789

1 As you know I have been appointed by the Secretary of State for the Environment to determine your appeal. Your appeal is against the decision of the Camden London Borough Council to refuse planning permission for the demolition of an existing garage and formation of a new beer garden, at The Constitution Public House, 42 St Pancras Way, London NW1. I have considered the written representations made by you and by the council, and also those made by the occupier of the garage, the United Kingdom Housing Trust Limited, the London Canals Consultative Committee and a local resident. I inspected the site on 22 August 1985.

2 From my inspection of the appeal site and its surroundings, and the written representations made, I am of the opinion that the principal issue for determination in this case is whether the benefits of the proposal justify the loss of the existing industrial accommodation in the garage on the site which would need to be demolished.

3 There is little doubt in my mind that the proposed elevated small terrace garden in this water-side position overlooking the Regent's Canal would be a considerable benefit to this leisure and recreational facility and add to the amenity of this part of the Regent's Canal Conservation Area. The appeal site is now enclosed on 2 sides, ie to the north and east, by new housing on the Elm Village development which has its own pedestrian steps up to it from the towing path and clearly the garden would need to be well screened and insulated from this development and the adjacent small area set aside for play purposes.

4 However, the garage block down the eastern boundary of the site is used for the repairing and maintenance of cars by Mr C Haughton. It has apparently been so used and leased by him for this purpose since 1967 although no planning permission has been granted for the use which is therefore unauthorised. Nevertheless, no enforcement action has been taken against it or is contemplated by the Borough Council. Three cars at a time can be worked upon inside the garage, and some 4 persons are said to be employed there. The Council's refusal stems from the loss of this industrial accommodation and its conflict with Policy EM25 of the District Plan, ie that changes of use or redevelopment of industrial floorspace for any other use will not be permitted. Policy EM26 also states that industrial uses will be encouraged to remain on existing sites unless severe nuisance is caused. The Council maintains that there is no evidence to suggest that the use has caused environmental nuisance, and the appeal proposal would result, therefore, in a net loss of industrial floorspace and of a small local business and leisure and Conservation Area policies and considerations should take second place to securing employment.

5 My own view is that with the development of the Elm Village housing on former railway land the present industrial use of the garage for general car repairs is now out of place in relation to this new residential setting the amenity of the canal-side and the Public House itself. As the Canals Consultative Committee points out the removal of the garage block would open up a view of the canal and the new wall and planting proposed for the terrace fronting the Canal would be more pleasing in appearance than the existing garage and the yard serving it. While Policy EM25 states that owners of older industrial buildings will be encouraged to improve and adapt such buildings for continued use I believe this would be inconsistent with the new environment which has now been established around the appeal site. Furthermore it is of course within the appellant's rights at the end of the present tenancy of the garage to revert to the lawful use of the building and yard doubtless ancillary to the Public House itself without the need for planning permission. I find therefore that the circumstances of the case do warrant the garage building being redeveloped and giving way to the appeal proposal with the obvious benefits involved. The need for the tenant and his business to seek a new location is regrettable but doubtless the Council is in a position to offer assistance in such cases where small businesses are displaced by redevelopment.

6 On the details of the proposal I consider it essential that the proposed garden should be effectively screened on its north and east sides by high walling from the adjacent residential development. Elevations of these boundaries are not however shown on the accompanying plans, but an access is from the private steps of the housing development from the towing path and through the eastern boundary wall from the housing area which is in my opinion inappropriate and I understand you also wish to delete it. In view of this I propose to impose a condition, as suggested by the Borough Council that details of all boundary walling or other means of enclosure and means of access to the site be submitted to and approved by the Council. I understand that an application has already been made for listed building consent to demolish the garage building being within a Conservation Area.

7 I have taken account of all the other matters raised and especially of Circular 22/80 and its advice concerning small businesses and also the more recent Circular 14/85 Development and Employment but consider however that they are outweighed by those considerations that have led me to my decision.

8 For the above reasons and in exercise of powers transferred to me I hereby allow this appeal and grant planning permission for the formation of a new beer garden at The Constitution Public House 42 St Pancras Way London NW1 in accordance with the terms of the application (No PL/8401789) dated 31 October 1984 and the plans submitted therewith subject to the following conditions

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

2 no development shall take place until there has been submitted to and approved by the local planning authority details of all boundary walling gates, or other means of enclosure and the means of access to the site

9 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

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

11 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



D J TACKLEY BSc(Econ) FRTPI
Inspector