

WELWYN HATFIELD COUNCIL
PLANNING CONTROL BOARD
24TH AUGUST 2000
REPORT OF THE CHIEF PLANNING OFFICER

PCB 24.08.2000
PART 1
ITEM NO
FOR DECISION
CPO

S6/2000/835/AM
MODIFICATION OF S.106 AGREEMENT TO REMOVE EXISTING PARTITION
AND USE STORAGE AREA AS PART OF BANQUETING SUITE AT FIRST
FLOOR, SAN FELICE RESTAURANT, GREAT NORTH ROAD, BROOKMANS
PARK

APPLICANT: Mr T ORSI

(Brookmans Park &
Little Heath)

1.0 INTRODUCTION

- 1.1 The application site is located on the southern side of Great North Road within the Metropolitan Green Belt. The application premises comprise a brown brick, two storey pitched roofed building which is used as a restaurant at ground floor and a banqueting suite at first floor. A landscaped car parking area is provided to the front, southern side and rear of the building.
- 1.2 To the south of the application site is an agricultural field, to the north west is a vehicle repair workshop while further to the west are residential properties along Bell Lane.

2.0 PLANNING HISTORY

- 2.1 The existing building on site was granted approval in April 1990 under planning reference S6/276/90/FP. The planning permission allowed use of the ground floor as a restaurant with a restaurant overspill area, kitchen, store and residential accommodation at first floor to be occupied in connection with the main restaurant use of the building. Permission was granted subject to the provision of a car parking layout which provided 63 car parking spaces.

- 2.2 In 1992 planning permission was granted for use of the first floor of the building as a banqueting suite. This permission was subject to a condition requiring a revised car parking layout which showed the provision of 68 car parking spaces within the site. This revised layout has not been provided. In addition the planning permission was subject to a S106 Legal Agreement. The terms of the Legal Agreement required a partition to be erected and retained at first floor to exclude an area of floorspace which would then be used solely as a storage area. In addition it required that the kitchen at first floor could only be used as a food holding area and not for cooking or for the preparation of food. Furthermore it required staff cars to be parked at Aylmer Motor Works Ltd immediately to the north west of the site whenever the banqueting suite was in use. The terms of the legal obligation were primarily imposed due to concerns regarding available car parking provision.

3.0 THE PROPOSAL

- 3.1 This application proposes to modify the terms of the Section 106 obligation imposed at the time of granting planning permission for the banqueting suite in 1992. The application seeks consent to delete clauses 5.2 and 5.3 of the obligation. Clause 5.2 relates to the requirement to erect and retain a partition wall at first floor. Clause 5.3 relates to using the area of floor sealed off by the partition wall only as a storage area.
- 3.2 It is proposed to use this area as part of the banqueting suite.

4.0 MAIN RELEVANT PLANNING POLICIES

- 4.1 Welwyn Hatfield District Plan Alterations No 1 1998
GEN CRITERIA 4 (Servicing, Access and Car Parking)

5.0 REPRESENTATIONS RECEIVED

- 5.1 The application has been publicised in the same manner as a planning application, with a Site Notice posted on the site and the notification of neighbouring properties by letter. In response to the consultation process no neighbour letters have been received.
- 5.2 North Mymms Parish Council object to the application on the grounds that the restrictions imposed at the time of the original planning permission for the banqueting suite were deemed necessary at the time and circumstances have not changed to such a degree to now warrant their removal or modification. It is considered that if the application is approved it would weaken the Council's position in considering possible future applications.

- 5.3 Herts County Council have no objection to the application subject to conditions that if further parking is provided no extra exits or entrances will be permitted onto the A1000 (Great North Road) and the existing entrance and exit will be clearly marked.
- 5.4 North Mymms District Green Belt Society raises the following concerns:
- that the functions that are or were to be, carried out in the area in question can still be carried out adequately if the modification is permitted
 - that consideration should be given to the capability of the site to accommodate further car parking that may be generated by the proposal and whether further cars would need to be parked at Aylmer Motor Works Ltd
 - that if permission is granted it should be made clear that the decision does not signify any softening in the Council's stance to such a change of use.
- 5.5 The Council's Traffic and Development Manager indicates that he is unaware of any parking problems in relation to the San Felice Restaurant and that the existing layout can adequately accommodate 70 cars.

6.0 DISCUSSION

- 6.1 In determining an application to vary a Section 106 planning obligation the Council must consider whether the obligation still serves a useful purpose and if it does whether it would serve that purpose equally well with the modifications proposed.
- 6.2 The original intention of the obligation was primarily to ensure sufficient parking space was retained within the accepted parking layout to accommodate customers to the restaurant and banqueting suite. In addition the intention of the clause regarding the first floor kitchen was to minimise any loss of amenity to adjacent residential properties.
- 6.3 The key issue in this case, therefore, is whether allowing the existing storage area at first floor to be used for banqueting suite purposes in association with the majority of the remainder of the first floor would result in parking problems. Furthermore I must consider whether the remaining clauses of the obligation retain a useful purpose.

- 6.4 The parking on site has been broadly laid out in accordance with that approved in 1990. However the 63 spaces specified have not actually been marked. In relation to the existing use of the building, when assessed against the Council's car parking standards at 1 space/5m² of dining area a requirement for 67 car parking spaces is generated. This does not include staff parking which the Council's standards measure at 3 spaces per 4 staff employed. The application details indicate that a maximum of 21 staff are currently employed on any one night and that this will not increase should the application be approved. At full capacity therefore, based on the Council's standards a requirement for 16 spaces is generated. These however can all be accommodated within the forecourt to Aylmer Motor Works Ltd which the Director of Aylmer Motor Works Ltd and the applicant himself have both confirmed are available for use.
- 6.5 The application proposal would result in the existing storage area being used as a banqueting suite. The area of 36 square metres would generate a requirement for an additional 7 car parking spaces to be provided resulting in a requirement of 74 spaces overall. A plan submitted by the applicants show that the current parking layout could reasonably accommodate 70 cars while still not including tandem parking. When assessed against the Council's standards the proposal, if accepted, would result in a shortfall of only 4 car spaces. As stated above the Council's Traffic and Development Manager has indicated that he accepts the ability of the site to accommodate 70 spaces.
- 6.6 In support of their application the applicants have also submitted a car parking survey and supporting statement indicating that customers often travel to the restaurant in groups with a high level of car sharing. The results of the car parking surveys which took place on Saturday evenings when both the restaurant and banqueting suite were in use, showed that even at the busiest time, when 186 customers were on the premises, 19 unused car spaces remained on the site. The results of the survey reveal that the minimum level of car sharing was 3.21 customers per car. When the minimum experienced level of car sharing is compared with the projected capacity of the premises of 206 customers it is revealed that 65 spaces would be used. As such 5 spare spaces would still be available in a worst case scenario.
- 6.7 Given the favourable results of the car parking survey, which clearly indicates how the customers travel to the premises in practice, and the small shortfall of only 4 spaces when assessed against the Council's car parking standards it is considered that the proposed modification of the obligation would not give rise to additional car parking problems. The size of the site is such that it is capable of accommodating more cars if necessary but given the low level of shortfall as existing and the attractive landscaped nature of the site it is not considered necessary to require alterations to the existing layout. Access, car parking and servicing facilities are therefore considered adequate and accords with Gen Criteria 4.

- 6.8 With regard to the other clauses of the obligation, Clause 5.5 requires staff cars to be parked in the staff parking area at the front of Aylmer Motor Works Ltd when the banqueting suite is in use. At times of full use of the restaurant and banqueting suite it is proposed that 21 staff will be required. When assessed against the Council's car parking standards this level of staffing generates a requirement for 16 spaces, which can all be accommodated at Aylmer Motor Works. Without use of this area there would therefore be a significant shortfall of parking on the existing layout when assessed against the Council's car parking standards. As such it is considered this clause still performs a useful purpose.
- 6.9 Clause 5.4 relates to the use of the first floor as a food holding area only. The lack of complaints to the Council about the ongoing operation of the banqueting suite from local residents would suggest that this clause may still be achieving its original purpose. Therefore it is considered that this clause should be retained.

7.0 CONCLUSION

- 7.1 I consider that the proposed deletion of Clauses 5.2 and 5.3 of the Section 106 obligation would result in an obligation which would still achieve its original purpose of retaining adequate parking and protecting local residential amenity equally well.

8.0 RECOMMENDATION

- 8.1 I recommend that Clauses 5.2 and 5.3 of the Section 106 obligation be deleted and the terms of the obligation altered accordingly.

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