



Chris Banks <bankssolutionsuk@gmail.com>

FW: Pubs EiP

1 message

Jonathan.Wade@rbkc.gov.uk <Jonathan.Wade@rbkc.gov.uk>

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To: bankssolutionsuk@gmail.com

Chris

Sorry, this was the e mail and enclosure. I probably should have realised that Neil Henderson had not forwarded it to you. For clarification it was Counsel's opinion, not appeal decisions.

Thanks,

Jon

From: Neil Henderson [mailto:NHenderson@geraldeve.com]**Sent:** 02 May 2013 13:08**To:** Wade, Jonathan: PC-Plan**Cc:** Tollitt, Penelope: PC-Plan; Hannah Farmer**Subject:** Pubs EiP

Dear Jonathan

Further to yesterday's EiP, which I thought was a very useful debate, I attach a copy of Counsels opinion (Bridget Forster) on the matter we discussed regarding shop fronts. This is a legal opinion we were provided with by a Council involving a scheme we were working on. I have blocked out references in the advice to site specifics or confidential information. We also took advice from Leading Counsel Russell Harris QC who concurred with the view of Bridget Forster. Unfortunately, the advice was given in conference and we do not therefore have a formal legal opinion from Mr Harris. I have to confess I was also mistaken that the advice referred to appeal decisions. It does however clearly indicate the principles that I was referring to. In summary the principal points of the case were:

1. A parade of out of centre retail warehouses were proposed to be subdivided.
2. A CLOPUD was granted confirming that internal works to subdivide the units could take place as the works were internal and there were no conditions preventing subdivision.
3. A planning application for shop fronts was then submitted to facilitate openings to these newly created units.
4. The Council sought to resist the application on the basis that these external works would enable the subdivision works (which did not require planning permission) to take place. Clearly from the Councils point of view they had concerns that smaller units would have a greater impact on the town centre. They couldn't resist the internal works and therefore sought to capture control through the external works.

5. Counsel concluded that, in considering the application for the external shop fronts, the Council was perfectly entitled to look at the planning consequences of the application. While there were no design issues of concern regarding the shop fronts, it was proper to consider whether the external works would enable the use of the subdivided units and the planning implications of this i.e impact on the town centre.

In applying the principles of this to the Pub and other uses situation my point is that there is not quite the free reign to utilise the benefits of PD rights through the Use Classes Order and that external physical works that may be essential to enable a change of use, could be refused by the Council if they considered it would facilitate a change of use which they were concerned with. The obvious example is a shop front to convert a pub into a restaurant.

Do call if it would be helpful to discuss.

regards

Neil Henderson

Partner

Tel. +44 (0)20 7333 6377

Fax. +44 (0)20 7491 1825

Mob. +44 (0)7909 878026

NHenderson@geraldeve.com

Gerald Eve LLP

72 Welbeck Street, London, W1G 0AY

www.geraldeve.com



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