



Planning Potential tapped into their extensive knowledge of planning law to prevent enforcement action and huge abortive costs for the client.

Planning Potential were asked by Ei Group to assist with an issue that had arisen during the course of an application for the reorganisation of the internal layout of the Cotham Arms Public House. The submitted plans showed that the customer toilets on the ground floor were to be moved to the first floor to provide additional bar and dining space. The first and second floors were formerly a manager's flat which was no longer needed and therefore it made commercial sense to relocate the toilets upstairs.

The Local Planning Authority took the view that these proposals would result in the loss of a flat and that because local policy resisted the loss of residential units, planning permission would be refused. The application also received objections from local residents and councillors who were concerned about the potential for noise, disturbance and loss of privacy. An added difficulty was that because the application process had taken so long, the internal works were already well underway.

Planning Potential reviewed the site's planning history and undertook a site visit. We concluded that the Council were wrong in their assessment. The upper floors were ancillary to the public house and the proposals did not therefore amount to a change of use requiring planning permission. We immediately advised the client to withdraw the application.

Officers became aware that the works had started and threatened to take enforcement action. We wrote to the Council explaining that planning permission was not required. We supported our case with relevant case law and appeal decisions that focused on material changes of use, ancillary uses, planning units and severability.

Officers responded stating that in their view the building had been designed as a ground floor commercial unit with a self-contained flat above and whilst they acknowledged that the flat had a shared access with the pub, they remained firmly of the view that the manager's flat was not ancillary because only minor changes were required to return the flat into a self-contained unit.

We knew at this stage that the Officers were not going to easily change their position and that we needed to find firm evidence to demonstrate that their understanding of the history of the building and their interpretation of planning law was wrong. We obtained old licensing plans and appointed heritage specialists to undertake archival research into the building. Historical plans and photos were found that invalidated Officers' position on the historical use of the building. We also instructed Counsel to provide a specialist legal view on the matter. They wholeheartedly agreed with our position and prepared a formal legal opinion to support our case.

The legal opinion, archival research and licensing plans were presented to the Council who then appointed their own solicitors to prepare a legal opinion on the matter. We were delighted when Officers confirmed that their legal team concurred with our position and that no further action would be taken. By this time the works had been fully completed and the pub was trading. A positive outcome was crucial for our client, as returning the pub back to its former layout would have led to substantial costs and loss of revenue.

Summary of achievements

- Extensive knowledge of planning law
- Strategy formulation
- Diligent research and appointment of other specialists and consultants to help strengthen our case
- Instructing Counsel
- Avoiding significant costs to client

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