
Appeal Decision

Site visit made on 3 October 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 October 2016

Appeal Ref: APP/L5240/W/16/3147676

Phibbs House, 239 King Henry's Drive, Croydon CR0 0AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Kay Adedaja against the decision of the Council of the London Borough of Croydon.
 - The application Ref 15/03617/P, dated 13 July 2015, was refused by notice dated 8 February 2016.
 - The development proposed is described as "a change of use from vacant industrial use to banqueting hall with 10 car spaces together with 6 cycle spaces".
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from vacant industrial use to banqueting hall with 10 car spaces together with 6 cycle spaces at Phibbs House, 239 King Henry's Drive, Croydon CR0 0AE in accordance with the terms of the application, Ref 15/03617/P, dated 13 July 2015, subject to the conditions attached in the Annex to this decision.

Procedural matters

2. The background to the proposal is the grant of planning permission on appeal in December 2007 for use of the wider premises forming 239 King Henry's Drive as a Christian Resource Centre, to include place of worship and day nursery; erection of roof extensions to include tower; and provision of associated parking. The approved plans show the first floor part of the building that is currently used as a church as forming a 3-bedroom self-contained flat, whilst the ground floor part which is now proposed as a banqueting hall, is shown as a multi-purpose hall/crèche. There are no conditions which require any specific uses to be carried out prior to others, or to restrict uses to particular parts of the building.
 3. The appellant has explained that the delay in obtaining planning permission for the Christian Resource Centre use meant that the whole of the building could not be acquired, and thus only some of the approved uses were carried out, restricted only to the parts of the building occupied today. This meant that some of the activities that had been intended as part of the mixed church-related use have not yet materialised, and this included the nursery/crèche use.
 4. The appellant argues that a separate planning permission is not required for the banqueting use, saying that it falls within the scope of the previous approval. Whether or not a material change of use has occurred is a matter of
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fact and degree but it is not a question that I can determine as a part of a Section 78 appeal.

5. From what I have read, I understand that it is not the whole of the application site that is to be used as a banqueting hall, but that the use is intended only for the large ground floor space below the first floor church room. Moreover, the banqueting use would be only one of the uses intended for the ground floor hall, as it still intended to use the hall as an after-school club and a Saturday school. I shall deal with the appeal on this basis.

Main Issues

6. The main issues are:

- i) the effect of the proposal on the provision of community facilities, and
- ii) the effect of the proposal on the living conditions of the occupiers of nearby residential premises on Calley Down Crescent, Rowdown Crescent and King Henry's Drive, with particular regard to noise and disturbance.

Reasons

Community facilities

7. Policy SP3.5 of the Croydon Local Plan (CLP): Strategic Policies (adopted in 2013) aims to protect existing community services that still serve, or have the ability to serve, the local community. Saved Policy CS2 of the Croydon Replacement Unitary Development Plan (RUDP) 2006 provides that development which would lead to the loss of community facilities including, amongst other things, care provision for children will not be permitted unless it has been demonstrated either that there is no need for them or that there are no alternative community uses which could make use of the buildings or site. Policy 3.16 of the London Plan also seeks to prevent the loss of social infrastructure.
8. In this case, there would be no loss of an existing child care facility, because this part of the multi-use development has not been carried out. Although the approved plans showed the crèche as being provided in the ground floor hall that is now proposed for use as a banqueting hall, there is nothing that restricts the use to that part of the site, and it could be carried out either within the banqueting hall or elsewhere in the larger building to which the 2007 permission relates. Thus the proposal would not necessarily result in the loss of a potential childcare facility, and the proposal includes an element of child-care within it.
9. I therefore find that the proposal would not result in the loss of a needed community facility and nor would it conflict with the policies to which I have referred to above.

Living conditions

10. The appellant has already implemented a number of measures to control noise from within the premises, such as the provision of sound proof doors and the provision of sound limiters, and the appellant's acoustic consultant has recommended further measures to assist in reducing noise leakage from the

banqueting hall. I am satisfied that these would be effective in mitigating the effect of noise from within the premises.

11. However, once patrons leave the building, noise is more difficult to control. Guests can congregate both outside of the building, near to parked cars, buses or coaches and further afield. Although the site is located within a bustling commercial and industrial estate, where day time noise levels are fairly high, it is clear from the appellant's acoustic survey that night time background noise levels are low. The noise survey was conducted between the hours of 01:00 and 04:00 on the understanding that the banqueting hall was to be used until 03:00 hours, whereas the appellant has indicated that functions are only to be undertaken on Friday, Saturday and Sunday nights, ending at 23:00 hours. I would expect background noise levels to be slightly higher at 23:00 when there would be likely to be more passing traffic, but even so, levels would still be low.
12. The nearest residential properties are some distance from the hall. The nearest ones are to the rear of the hall, on Rowdown Crescent, the rear facades of which are some 80m-85m away. The lane which runs down the side of the hall terminates at a commercial yard, and I consider it unlikely that guests would leave or congregate in that direction. The other nearest residential properties are on the opposite side of King Henry's Drive, the closest being at 164 Calley Down Crescent. As people leave the hall, there is the potential for occupiers of other properties further away to be affected by noise and disturbance.
13. The application prompted a large number of public representations, the majority of which supported the proposal. However, with regard to this issue I have placed particular weight on the representations from people who live closest to the appeal site and who have had experience of events held in the hall in the past. Of especial concern are the complaints about noise from music and from people leaving the hall, fighting, anti-social behaviour and litter.
14. However, it is clear that the events that have been held in the past which have caused some of the greatest concern are those late-night events, characterised by some objectors as "raves", some of which are said to have finished at 06:00 hours. That is not what is proposed here, where events are intended to finish at 23:00 hours, and I would consider it likely that events that finish in the early hours of the morning are markedly different in character to those that finish at 23:00. A condition restricting hours of opening could be readily enforced.
15. The appellant also proposes that marshals/door supervisors would control on-street parking and the behaviour of guests while outside the premises. Such control would only be likely to be effective close to the site, but this would be likely to assist in mitigating some potential disturbance. Whilst I recognise that marshals and supervisors are likely to have limited ability to control the behaviour of patrons once they leave the premises, I would expect any management scheme to include a provision that the terms of entry of guests would require compliance with directions from staff, and thus some measure of control would be enforceable.
16. I also have borne in mind that the permission for the premises which allows its use for a variety of purposes that includes conferences has no restrictions on hours of operation, and thus some degree of disturbance from parking and comings and goings might be expected from the authorised use.

17. Looked at in the round, whilst I am conscious of the disturbance and anti-social behaviour that nearby residents have experienced in the past, I am satisfied that the more limited and controlled use of the hall for banqueting, subject to the imposition of conditions, would not materially harm the living conditions of nearby residential occupiers. Nor would it conflict with CLP Policy SP6.3 which deals with sustainable design and construction, and includes an aim to minimise noise pollution. I also find no conflict with saved RUDP Policy EP1 which deals with pollution and aims to protect the amenity of users of surrounding land. Nor would it conflict with London Plan Policy 7.15 which deals with noise.

Other matters

18. The proposal would provide a local facility for members of the church and the wider community, and it would also support the work of the church resource centre, and I attach some weight to these benefits.

Conditions

19. The Council has suggested only one condition, requiring compliance with the submitted plans. However, the plans are imprecise as to exactly what is proposed, and so I shall impose a condition to restrict the banqueting use to the ground floor hall, for the avoidance of doubt as to the scope of the permission. The Council's Environmental Health Officer has sought conditions relating to secondary glazing, noise limits and ventilation. These together with the appellant's suggested condition relating to hours of operation and the provision of a management scheme are necessary to protect the living conditions of nearby residential occupiers.

Conclusions

20. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The use for the holding of banquets and similar events shall be restricted to the ground floor hall denoted as "function room" on the submitted proposed floor plan Ref: KIN-57 03, Rev E.
- 3) The banqueting use shall not take place until a scheme for protecting nearby residential properties from noise from the banqueting hall use, including details of secondary glazing, noise limits, the operation of noise limiters and means of ventilation, have been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the banqueting use commences, and the approved measures shall be retained at all times.
- 4) Prior to the use commencing, a management plan detailing measures to secure orderly parking and the arrival and departure of guests from the premises shall be submitted to and approved in writing by the local planning authority. The approved management scheme shall be adhered to at all times when events are held in the premises.
- 5) Customers and guests shall only be permitted on the banqueting hall premises between the following hours:
06:00 – 18:00 hours Mondays - Thursdays
06:00 – 23:00 hours Fridays – Sundays