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## Appeal Decision

Site visit made on 12 November 2019

**by P N Jarratt BA DipTP MRTPI**

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

**Decision date: 21 November 2019**

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**Appeal Ref: APP/L5240/C/18/3208139**

**Sterling House, 3 Gladstone Road, Croydon, CR0 2BQ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Resurrection Power & Living Bread Ministries against an enforcement notice issued by the Council of the London Borough of Croydon.
  - The enforcement notice, numbered 16/00146/C, was issued on 27 June 2018.
  - The breach of planning control as alleged in the notice is a change of use of the premises from light industrial/warehousing to a place of worship/community/education use.
  - The requirements of the notice are to cease the unauthorised use as a place of worship with ancillary training and community facilities.
  - The period for compliance with the requirements is 3 months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at Sterling House, 3 Gladstone Road, Croydon, CR0 2BQ, as shown on the plan attached to the notice, as a place of worship/community/education use.

### Reasons

2. An appeal on ground (a) is that planning permission should be granted for the alleged breach of planning control.
3. The main issue is the effect of the development on the availability of industrial/warehousing capacity.

#### *The site and relevant planning history*

4. The appeal site building comprises a 2-storey commercial structure with a largely open ground floor laid out as an auditorium and stage with offices and meeting rooms above. The gross internal area is about 372 sq m. according to the letting agent's particulars. It is used as a place of worship with ancillary training and community facilities by Resurrection Power and Living Bread Ministries since 2008 (falling into the D1 use class). Between November 2007 and July 2008 the site was vacant, and prior to that it is understood that the use was as a warehouse.

5. It has a car park and delivery/turning area, accessed from Gladstone Road. The site is within the Gloucester Road (West) Employment Area, which contains a range of commercial buildings including warehouses, repair workshops, and light industrial uses. The location of the site is towards the edge of the designated area, beyond which lie streets of terraced housing. The plots to the north and east are occupied by a car repairers and a warehouse, and the plot to the west has recently been developed for flats.
6. In January 2013 permission was refused for the continued use as a place of worship, training, educational and communities activities purposes and the provision of associated parking. A similar application was refused in September 2013. The reasons for the refusals related to the loss of industrial/warehousing capacity, noise and disturbance, and impact on highway conditions.
7. An appeal was dismissed for the same development in March 2016 (APP/L5240/W/15/3134570). The inspector concluded that the development reduces the availability of industrial /warehouse facilities but considered that highway impacts could be controlled by conditions.

#### *Policy considerations*

8. The London Plan 2016 at Policy 2.17 seeks to protect Strategic Industrial Locations and Policy 4.4 refers to managing industrial land and premises. Policies E4 and E7 of the draft London Plan further emphasises the need to retain employment land.
9. Policy SP3.2 of the Croydon London Plan 2018 has a 4-tier approach to development in employment areas, and identifies this site as being within a Tier 2 Integrated Industrial Location, which it considers performs an important economic function. Its approach for Tier 2 areas is for the strong protection of industrial and warehousing activities permitting uses in Classes B1(b), B1(c), B2 and B8 as well as employment generating sui generis uses. It permits Class D1 uses provided that it can be demonstrated that there is no demand for the existing premises or for a scheme comprised solely of the permitted uses.
10. I note that the Council's statement at paragraph 5.7 states that in describing Tier 2 sites as shown on Table 5.1 of the Local Plan, "No other uses are permitted in such locations". However this seems to ignore the 'Other Uses' column of the table which expressly refers to Class D1 and other uses being permissible subject to limitations. At paragraph 6.4, the Council appears to be confusing the approach taken for Tier 1 designations with Tier 2.
11. The requirements of Policy SP3.2 can be distinguished from the equivalent policy considered by the Inspector in the March 2016 appeal. At that time there was a requirement in respect of other permitted uses in integrated industrial locations "not to result in any net loss of industrial floorspace". This is not the case in the current adopted Local Plan.
12. Paragraph 5.9 of the Croydon Plan indicates that the fringes of some Tier 1 and Tier 2 locations within the context of Policy SP3.2 have the potential for transition through development that enables the locations to relate better to their surrounding uses and character. This transition could come in the form of intensification of development, high density development and the introduction of new land uses or mix of land uses. Paragraph 5.11 identifies that D1 uses can struggle to find suitable premises adding that allowing the change of use of

Tier 2 and 4 premises in the more accessible locations to D1 uses helps to safeguard T1 locations for continued industrial use and opens up a supply of premises for community use. It goes on to say that restricting this flexibility to higher PTAL locations means that uses attracting large numbers of visitors can make use of public transport. I note that from the submitted Travel Plan, the appellant considers the site to be within a 'more accessible' location being suitable for a D1 use.

13. Policy SP5 encourages the provision of a network of community facilities and DM19 supports community use applications where the proposal complies with the criteria for D1 use class uses in industrial locations, which is the case in this appeal.
14. Policy DM9 of the Croydon London Plan 2018 encourages greater density of occupation within the current boundaries of the Strategic, Separated and Integrated Industrial Locations. The D1 use does not prejudice the aims of the policy.
15. Paragraph 121 of the National Planning Policy Framework (the Framework) promotes the effective use of land. Paragraphs 91 and 92 promote healthy and safer communities and that planning decisions should plan positively for the provision and use of community facilities. Other paragraphs in the Framework support the building of a strong, competitive economy.

#### *Assessment*

16. Although the Council has endeavoured over a number of years to bring the use under control and has been consistent in its approach to the various planning applications, the use of the appeal property has been in operation for over 10 years and no specific and demonstrable harm arising from its use has been identified by the Council. Whilst not wishing to underplay the importance of the availability of industrial/warehouse land and premises to the local economy, the Council has not provided any information about current supply and demand for such premises. Nor has the Council appeared to have considered the nature of the use against the relevant parts of their policies in the Croydon Local Plan adopted in February 2018 which pre-dates the date of the notice.
17. D1 uses are not prohibited from Tier 2 locations subject to certain requirements. Other than information about the premises being vacant for a period of months prior to occupation by the appellants, there is an absence of information about the demand for the premises or marketing efforts to find a tenant whose use of the premises would better accord with industrial/warehousing.
18. Notwithstanding the absence of more robust evidence on demand for the premises, on balance, I consider that the use generally accords with the policies contained in the Croydon Local Plan and with the Framework. Any tension that may exist with employment land protection policies is outweighed by the benefits that the community use brings to the area through the various Christian ministries, counselling and community services provided by the use of the premises.
19. The Council has referred to recently published plans by Network Rail to upgrade the Brighton Main Line through Croydon. This would impact on the Gloucester Road Employment Area (but not the appeal site) through land

requirements, although the project will need to find land to replace employment land. It is unclear how advance these proposals are or what the implementation period would be.

20. The appellant has submitted a Travel Plan to address highway and transport issues, but this was perhaps unnecessary as such matters did not form part of the reasons for the Council issuing the notice.
21. Although the appellant has suggested conditions making the permission personal to the appellant and for the submission of a travel plan for approval, neither condition is necessary to make the use acceptable.

*Conclusion*

22. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

*P N Jarratt*

**Inspector**