



Appeal Decision

Site visit made on 10 August 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal Ref: APP/G5180/W/22/3293453

Unit 2, 57 Kangley Bridge Road, Lower Sydenham, London SE26 5BA

- 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 Redeemed Pillar of Fire against the decision of London Borough of Bromley.
 - The application Ref DC/21/03960/FULL1, dated 27 July 2021, was refused by notice dated 25 January 2022.
 - The development proposed is change of use from General Industrial (Use Class B2) to a Place of Worship (Use Class F1) for a 5 year temporary period at Unit 2, 57 Kangley Bridge Road.
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Decision

1. This appeal is dismissed

Preliminary Matters

2. The description of development has changed from the application form. The description set out above in the banner heading accurately describes the existing use as agreed in the decision notice and appeal form. At the time of the application, permission was sought for a change of use for both units 1 and 2 at the same address. For clarity, this appeal seeks permission for unit 2 only.

Main Issues

3. The main issues are the effect on the proposed development on:
 - the supply of land for Class B uses within the Kangley Bridge Road Locally Significant Industrial Site,
 - the living conditions of nearby occupiers in respect of noise and disturbance, and
 - whether the proposed level of on-site car parking would be acceptable and the associated effect of the proposal on highway safety and the free flow of traffic.

Reasons

Use

4. The appeal site is a locally significant industrial site (LSIS) and was previously in class B2 use. Together Policy 82 of the Local Plan (January 2019) (BLP) and Policy E6 of the London Plan (March 2021) (LP) make clear that the following industrial and related uses, in these areas permit Class B1 (a), (b) (c), B2 and, in certain circumstances, B8 uses. Other employment generating uses are also

permitted subject to specific criteria. Of relevance to this appeal are, criteria a) which requires that the site is no longer suitable or viable for Class B use in the medium to long term and criteria c) the use would not compromise the primary function of the LSIS. It appears to me that the primary function of the LSIS is to provide sites for B class floorspace in this location where there is a demand.

5. The appellant states that the premises had been on the market for a long time prior to their interest. However, no detail of the marketing or the length of time that this occurred for have been submitted to me. As such I have no evidence before me that the site is no longer viable for Class B use.
6. The appeal site has been refurbished and is open plan, allowing for flexibility and there is no dispute in this regard. The GVA Grimley LB Bromley Economic Development and Employment Land Study (January 2010) states that the Kangley Bridge Road LSIS has poor stock, is poorly located and with poor access to amenities. On the other hand, the Council provides evidence that currently only 2.5% of the floorspace in the Lower Sydenham LSIS is vacant. I have taken into account the nature and age of this evidence and overall this leads me to conclude that there is demand for property in this location in Class B use.
7. Permission is sought for a 5 year period, and at this point the F1 use would cease and the premises would return to B2 use. However, the evidence before me does not persuade me that there is no demand for this site in the short to medium term of the next 5 years. Furthermore, while a temporary planning permission is being sought from non-B1 use, this would not be a short period of time. Neither policy 82 of the BLP nor policy E6 of the LP support temporary uses of existing class B buildings in this way.
8. Consequently, the proposed development would have a harmful effect on the supply of land for Class B use within the Kangley Bridge Road Locally Significant Industrial Site. Therefore, in this respect, it would be contrary to policies 82 of the BLP and E6 of the LP, the aims of which are set out above.

Living Conditions

9. The closest residential properties are the Dylon Works apartments, which are to the north of the site approximately 85m away and separated by the railway line. Planning permission has also been granted for apartments up to 11 storeys directly to the rear of the site, also separated by the railway line approximately 30m away (the Footzie Club site). These works do not appear to have started but there is no evidence before me to indicate that the development would not be capable of still being implemented. Therefore, the potential for this development to be erected is relevant from the point of view of considering the effect of the development on future resident living conditions.
10. Permission is sought for music, including amplified music and sound which is an important part of the way in which this group express their faith. The nature of the proposed use is that different services and events occur at particular times. Taking into account both the planning statement and transport statement, although these differ from the application form, it appears that the main services (with up to 100 people attending) occur between 6-10pm on Wednesdays and Fridays, 12am-3am on Friday night/Saturday morning, and 11am-2pm on Sunday. A planning condition preventing use between 10pm and

8am on weekdays would be the mechanism to control this use. There would be no mechanism to control the hours of use at weekends.

11. The planning statement describes the building as being of brick construction and metal profile sheeting to the upper elevations and sheeting to the roof. I saw that the entrance to the rear of the site is via single glazed glass doors and that a false ceiling had been installed. I have not been provided with the sound attenuation properties of these materials. However, it seems likely that internal amplified noise would be heard outside the site as well as noise from worshipers entering and leaving and their vehicles.
12. The nearest residential properties are likely to experience background noise from the nearby commercial uses during their operating hours, as well as noise from passing trains. However, at night it is likely that background noise is low as such any noise from the church use would be more likely to be heard, and at a sensitive time when quiet and sleep is expected. Furthermore, the nature of noise that is likely from amplified music and voices, car doors and engines and conversations from people leaving would be difficult to ignore and adds to the harm that would be experienced for those that live in the vicinity of the site.
13. Consequently, it is likely, particularly during night time hours, that noise and disturbance from the proposed use would cause harm to the nearby residential occupiers at Dylon Works as well as the future occupiers at the Footzie Club site.
14. A condition is suggested that would provide a noise impact assessment and a scheme of noise control. However, I am not provided with detail as to what noise control measures would be, particularly in light of the requirement for amplified sound and hours of operation. As such I am not satisfied that this would suitably mitigate the adverse effects. Furthermore, this is a matter that goes to the heart of the principle of the acceptability of the development and, therefore, is not something that can reasonably be left to a condition.
15. Therefore, the proposed development would result in harm to living conditions of nearby occupiers with particular regard to noise and disturbance. As such, it would be contrary to Policy 21 and 119 of the BLP and Policy D13 of the LP which requires that the creation of social infrastructure should not adversely affect the amenities of adjoining occupiers, minimise adverse impacts on noise sensitive receptors, and requires new noise generating development close to residential to mitigate and manage impacts, amongst other things.

Highways

16. The site is located close to Lower Sydenham railway station and there are bus stops on Worsley Bridge Road. However, it has a low PTAL level. Furthermore public transport options would be significantly reduced for late night services.
17. A total of 15 car parking spaces would be provided to the front and rear of the property. The parking spaces on the adjoining site are not within the appeal site and I am not presented with any mechanism to secure their use by the appellants. The road closest to the site has double yellow lines, although there are on street car parking bays to the north. Policy T6 of the London Plan requires development which is not well connected to public transport to provide the minimum necessary parking.

18. The transport statement provides evidence for 19-34% of attendees driving to the site. For the larger services of 100 people this would mean that the capacity of the on-site car parking would be exceeded. Overspill parking is likely to increase for late night services when public transport is limited.
19. On street parking nearby is restricted to marked bays only and these are not in direct proximity to the site. In the absence of detailed car parking surveys, I am unable to ascertain whether sufficient on-street car parking spaces would be available to accommodate demand arising from the proposal, particularly for larger services and at particular times. In turn, I cannot therefore determine whether the proposal would lead to significant amounts of on-street car parking in the area and hence whether the proposal would lead to an unacceptable interruption to the free flow of traffic in the locality. There is the potential for significant amounts of car parking within the vicinity of the site and I am concerned that if enough car parking spaces were not available, visitors may park indiscriminately on double yellow lines to the detriment of highway safety.
20. Therefore, I am unable to conclude that the proposed development would provide an acceptable level of car parking and that it would be acceptable in terms of the free flow of traffic and highway safety in the area. Therefore, and on the evidence that is available to me, I cannot conclude that the proposal would suitably accord with policies 30 and 32 of the Bromley Local Plan or Policies T2, T4 and T6 of the London Plan. Together these set car parking standards, require new development to reduce vehicle use and promote walking, cycling and public transport and requires that new development should not significantly adversely affect road safety, amongst other things.

Other Matters

Community Facility

21. Policies 20 and 21 of the BLP and Policy S1 of the LP recognises the importance of community facilities, and these are encouraged to locate in accessible locations.
22. The development proposed is for a church currently operated by the Redeemed Pillar of Fire (RPF) which also provides outreach and support services. The evidence before me states that many of their members are former gang members and people/families' society has long since given up on. RPF pride themselves on creating a safe space for individuals to express their faith in manner befitting to them. I also understand that the congregation is from the local area.
23. The site has a low PTAL rating, although there are public transport options nearby. There are also other community uses in the vicinity. Therefore, whilst the site is not highly accessible, nevertheless the provision of community floorspace is a clear benefit of the scheme.

Equalities

24. The appeal scheme would provide a place of worship for a Christian church which is described in the planning statement as a black church in the UK. I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and

people who do not share it. The Act sets out the relevant protected characteristics which include race and religion or belief. The proposal would advance equality of opportunity between persons who are members of the church and those who are not and this is a benefit of the proposed development.

25. The appellant has set out the difficulties in finding such premises, including the cost, and that demand for the community facilities that do exist may be higher than the LPA are aware. However, I am provided with limited detailed evidence in this regard such as which other D1 premises are currently available at present and why these would be unsuitable. Therefore, it has not been demonstrated that the appeal scheme would represent the only or least harmful option to provide the accommodation required.

Balance

26. The proposed development would provide a premises for a group of people who share protected characteristics under the PSED, and this would provide a place of worship and other services which are important components of the social infrastructure of the borough. Albeit given the accessibility of the site and the fact that there may be alternative less harmful sites for this use, the weight afforded to these benefits is moderate.
27. On the other hand, the development would compromise the strategic supply of B class land in the borough which generates employment and other economic benefits as well as creating unacceptable living conditions for nearby occupiers. Taking the account the strategic nature of the LSIS land, together with the harm that would be caused to living conditions and as the lack of acceptability of the proposed development with regard to highway safety and the free flow of traffic, collectively the harm would be considerable.
28. On balance, I find that the moderate benefits arising from the proposal would not outweigh the considerable harm identified above. In this case, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of avoiding harmful development.

Conclusion

29. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

H Miles

INSPECTOR