



Appeal Decision

Site visit made on 22 November 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/L5240/W/22/3290281

16 Godstone Road, Kenley CR8 5JE

- 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 Get-a-Ride against the decision of the Council of the London Borough of Croydon.
 - The application Ref 21/03036/FUL, dated 7 June 2021, was refused by notice dated 13 October 2021.
 - The development proposed is described as a change of use from E (old Use Class A1) to Sui Generis.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) Regulations 2020 came into force ('the 2020 Regulations'), amending the Town and Country Planning (Use Classes) Order 1987 (the Use Class Order). This revoked Classes A and B1, and, amongst other matters, created a new Class E covering a broad commercial, business and service use and Class F covering, amongst other things, Local Community uses.

Main Issues

3. The main issues are:
 - Whether or not the site is a suitable location for the development;
 - The effect of the proposed development on highway safety with particular reference to parking stress and cycle storage; and
 - Whether the proposal would provide adequate fire safety precautions for future occupiers.

Reasons

Suitable Location

4. The appeal site falls within a designated Shopping Parade. Policy DM6 of the Croydon Local Plan 2018 (the Local Plan) seeks to ensure the vitality and viability of the borough's shopping parades are maintained and increased, and that they continue to serve local communities. Table 5.7 of the Local Plan confirms that Sui Generis uses which do not relate to a Community Use would not be supported.

5. While an alternative use would create employment opportunities, the existing use would also create employment opportunities. The unit is currently vacant and there is no substantive evidence to show there is a lack of demand for the existing use, or the other uses as set out in table 5.7 of the Local Plan.
6. Paragraph 5.62 of the Local Plan explains that Policy DM6 seeks to ensure that at least 50% of the units within the Shopping Parade are shop uses. The appellant suggests that if planning permission was granted, for the appeal proposal, the threshold of 50% would not be breached. However, no evidence to substantiate this calculation has been provided.
7. The Council disagree, they find that the appeal proposal would result in five of the eleven units, in the Shopping Parade, would be in a shop use and overall this would fall under 50%. The appellant has not challenged the Council's assessment.
8. Following my site visit, I am more persuaded by the Council's review and consequently, I find that the proposed development would not retain at least 50% of the units within the Shopping Parade as shop uses.
9. Paragraph 5.62 of the Local Plan supports sui generis uses which serve the local area. However, this paragraph also confirms that sui generis uses which serve a wider catchment are not acceptable.
10. I acknowledge that a local presence would highlight the identity of taxi services and would provide a service to the local community and visiting members of the Shopping Parade. However, it has not been robustly argued that the proposed change of use would only serve the local area. Particularly as the appellant states at paragraph 5.1 of their Grounds of Appeal that deployment would be over a wide catchment area. There is also no evidence that existing taxi provision fails to provide an adequate service, therefore necessitating the need for a local presence.
11. Consequently, the loss of this existing use would conflict with the development plan as a whole. It has not been demonstrated that the proposed use would contribute toward the vitality and viability of the Shopping Parade. Accordingly, there would be conflict with the relevant provisions of Policies DM6 including Table 5.7 and SP3 of the Local Plan, Policies E9, GG5, SD6, and SD7 of the London Plan (2021) and Section 7 of the National Planning Policy Framework (the Framework) all of which, amongst other things, seek to ensure that development is appropriate within these areas.

Highway Safety

12. The Council advises that on-street parking is restricted along parts of Godstone Road, however the local area does not fall within a Controlled Parking Zone. The Council's evidence states that the local roads are already stressed and while a snapshot in time, during my site visit, I also found the local area to suffer from high levels of parking stress.
13. The proposed development would have no off-street parking and the appellant refers to the use of computer software to provide effective dispatch and rotation of work among drivers to ensure drivers waiting for fares are spread across the local area. This is a reasonable understanding of how taxi and minicab services operate. However, this does not rule out office staff driving to

the site or taxi drivers returning to the office to access support / comfort facilities or to wait for fares.

14. While the appellant has suggested a condition could be imposed to agree a management plan to control collection and drop off of passengers, I have not been provided with compelling evidence that such a condition would satisfy the tests set out at Paragraph 56 of the Framework. Even if it did, this would not negate the uncertainty surrounding drivers returning to the office when not carrying passengers as set out above.
15. Consequently, the appellant has not clearly evidenced that the proposed use would not generate any additional parking demand or that the existing local road network can accommodate the proposed use. As such, the lack of off-street parking would likely lead to inconsiderate parking in the vicinity of the site, which would lead to an unacceptable risk of conflict between road users, as well as pedestrians.
16. Policy T5 of the London Plan states that development proposals should help remove barriers to cycling and create a healthy environment in which people choose to cycle. To achieve this, cycle parking should also be fit for purpose.
17. The appellant proposes to provide two cycling parking spaces in either the pantry / storeroom or the basement. Cycle parking should be practical and functional. This proposed cycle parking provision would require negotiating doors and in the case of the basement would not have step free access. Additionally, there is also no detail before me to demonstrate how cycle parking facilities would cater for adapted cycles. Therefore, it is reasonable to conclude that the lack of cycle parking provision would lead to greater demand on the use of private cars, which would exacerbate the harm as a result of the lack of off-street parking.
18. I find therefore that the proposal would result in unacceptable harm to highway safety. The proposal would consequently not accord with the relevant provisions of Policies SP8, DM29 and DM30 of the Local Plan, Policies T1, T2, T4, T5 and T6 of the London Plan or the Framework. These seek, amongst other things, to manage parking stress and ensure that developments make adequate provision for cycle parking.

Fire safety

19. Apart from the demolition of an internal wall and erection of a new internal wall, no physical changes would be proposed in connection with the new use. Policy D12 of the London Plan requires that all development proposals achieve the highest standards of fire safety.
20. At paragraph 3.12.2, the London Plan states that the matter of fire safety compliance is covered by Part B of the Building Regulations. However, it says, 'to ensure that development proposals achieve the highest standards of fire safety ... applicants should consider issues of fire safety before building control application stage'.
21. Policy D12 (a) also sets out what is required in the interests of fire safety and to ensure the safety of all building users. In this appeal, the appellant gives little substantive detail of how fire safety and evacuation issues would be addressed within the development. However, they suggest a condition could be imposed to agree this detail, were I to allow the appeal.

22. Given the modest scale of the proposed development, I have no reason to doubt that a satisfactory fire safety strategy could be required by condition if permission were to be granted.
23. Providing that such a condition was worded to preclude the occupation of the development until these matters were addressed, I conclude that this would make the development acceptable in terms of fire safety for future occupiers of the development. Therefore, no conflict would arise with London Plan Policy D12 which seeks to ensure the safety of all building users.

Conclusion

24. While I have found no harm arising in respect to fire safety, subject to an appropriately worded condition, this would be a neutral matter neither weighing for nor against the proposal. I have, however, found unacceptable harm in respect to the location of the proposed development and its impact on highway safety.
25. As such, the proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR