



Appeal Decision

Site visit made on 29 May 2025

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/L5240/W/25/3362290

70B Stafford Road, Croydon CR0 4NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Amit Patel of AB KEYNES LTD against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 24/02831/GPDO.
 - The development proposed is the prior approval for the conversion of 70B Stafford Road into 28 self-contained flats, under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This is a prior notification application under Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). This Class allows, subject to prior approval, conditions and limitations, development consisting of a change of use of a building, and any land within its curtilage, from a use falling within Class E (commercial, business and service) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the Use Classes Order) to a use falling within Class C3 (dwellinghouses) to that Order.
3. The Council refused the application for seven reasons. The first reason was that the proposal had failed to demonstrate that the existing site use falls within Class E of the Use Classes Order. If this is the case, then the scheme cannot benefit from the permitted development right for a change of use from Class E to Class C3. If the existing use does not fall within Class E, then the scheme would fall at this initial hurdle and the scheme could not be permitted development under Class MA of the GPDO.
4. This requirement is also related to paragraph MA.1(1)(b) which requires the use of the building to fall within one or more of the classes specified in sub-paragraph 2 (which includes the previous B1 use class, or after 1 September 2020, Class E). While the premises have been vacant since 2020 there is no evidence that the previous use of the building has been abandoned or superseded by other uses. Consequently, the continuous use of the premises for at least 2 years prior to the date of the application should relate to the last and lawful use of the site.

5. If the existing use of the site does not fall within Class E (previously in the case of this site, argued to be within Class B1), then the scheme would not meet the requirements for a change of use under Class MA and the other reasons for refusal would not be determinative, because the scheme could not, in any case, be permitted development.
6. On the other hand, if the existing use was considered to fall within Class E (previously Class B1) then the scheme could be considered under Class MA and the other reasons for refusal would need to be assessed and a decision made as to whether prior approval should be granted. I will look at this fundamental issue as to whether the existing use can be considered to fall within Class E (previously Class B1) in the procedural issues section below.

Procedural Issues

7. It is important, as a starting point, to comment that the appeal before me does not concern a Certificate of Lawful Use and Development application. A certificate application would be the legal process to determine the lawful use of land and buildings. This process could include seeking local representations which could lead to comments on the past uses, and other detailed investigations that may help to clarify the lawful use.
8. In the absence of the rigour of a certificate application, if I was to agree with the appellant through this prior notification application that the existing use of the premises falls within Class E, then I consider that I would need a high degree of certainty to confirm such a use. This would ensure that no party or local resident would be prejudiced that the certificate route had not been undertaken and the decision would be less vulnerable to challenge.
9. At the application stage the appellant has submitted a statutory declaration from Ingrid Scott. She certifies that between October 2004 and 2020 she was the owner and operator of the property and used the site as warehouse, workshop and premises for light industrial manufacture of bespoke cabling (and a small area making metal storage racking) for companies in the film industry and at no time was any heavy industry carried out at the property.
10. I am conscious of the evidential value of a statutory declaration and this information is from the owner and operator. However, the Council comment that it is not possible to gauge from this statement if the works carried out on site were carried out without causing detriment to the amenity of the area, which is a differentiating factor between Classes B1c¹ and B2, or fell within B8. I am also not clear from the declaration information on the nature and extent of the uses across the site, for instance, whether the storage use could have been a primary use in combination with the manufacturing such that the operations constituted a mixed use. Also, there is little detail regarding the making of the metal storage racking and whether or not this was a Class E (previously Class B1) use or a Class B2 use.
11. The Council has also referred to the planning history of the site which is listed in its Planning Report. This includes, under reference 07/03878/P, an application on the site for the erection of a single storey extension to *existing warehousing and light*

¹ B1c being light industrial use before the Use Classes Order was revised and this use is now included within the E Class of uses. B2 is a general industrial use and B8 storage and distribution (warehousing)

industrial premises (my emphasis added). The information confirms that this application was approved but never implemented. Nevertheless, the description of the development indicates to me the possibility of an existing use of the site at that time as being a mixed use of Classes B1c and B8. It is explained by the Council that the unimplemented approval included a condition restricting the use to Classes B1c and B8, and not only B1c, again an indication of a mixed use.

12. The Council has also referred to the more recent planning history. This includes a pre-application enquiry in 2021 for the redevelopment of the site for the erection of 58 residential units. This was followed in 2022 with a planning application for that development. The pre-application enquiry included a statement from a planning consultant. I accept that this was made on behalf of a prospective developer, nevertheless, it included a detailed analysis of the site history, explaining its amalgamation with adjoining units and the report concludes that since 2007 there has been a single planning unit having a lawful use for general industrial, Use Class B2. One of the benefits of the redevelopment was argued to be the removal of the Class B2 use and it was explained in the pre-enquiry report that the last occupier regularly received complaints from neighbouring residential properties about noise and vibration.
13. The resultant planning application, in 2022, specified on the planning application form that the last use of the site was Class B2.
14. The appellant argues that these references to Class B2 use are speculative, made on behalf of a commercial housing company and are an inaccurate classification of the use of the site. It is argued that the statutory declaration is clear on the light industrial use of the site and that the use of the site by Bryant Unlimited as manufacturing for bespoke cabling and an area making storage racking is clear and unambiguous. The appellant also argues it is reasonable to assume that any company making any product including 'storage racking' would obviously contain some element of ancillary storage, but it does not deter from the primary classification of the use as light industrial purposes.
15. There is agreement between the Council and the appellant that the building was used by Bryant Unlimited between October 2004 and 2020 and since that time the premises have been empty. However, I consider, based on the available information, that the use of the site up to it becoming vacant in 2020 is not clear and unambiguous.
16. I accept that the appellant has provided information, including in the statutory declaration, to seek to demonstrate that the use was historically Class B1 and which would now fall within Class E. On the other hand, a planning consultant in 2021 and 2022 made an assessment of the site history and background, and concluded that the use of the site fell within the B2 Use Class. The Council has indicated that it is not convinced that the past use is entirely Class B1 and that there could be elements of B2 and B8.
17. In my mind, there are genuinely made but conflicting arguments as to the interpretation of the available information and/or limited detail to enable me to come to a clear conclusion with sufficient certainty on the existing use of the premises. Indeed, I believe that some of the documentary information casts some doubt that the premises were solely in Class B1 (and now Class E) use. However,

it would be open for this to be reviewed, in the future, in the light of further evidence.

18. This uncertainty has not been resolved by my site visit. Internally the premises have some of the character of a light industrial/research and development use with ancillary offices. However, as the building is stripped and empty it is difficult to assess what activity would have taken place in the various sections of the building in the past. In particular, the nature of any storage use and whether activities, even if small scale, went beyond the limits of a Class B1 use and strayed into a Class B2 or Class B8 activity.
19. It follows that, in my judgement, the evidence is not sufficient to allow me to reach a clear conclusion that the use of the premises falls within Class E of the Use Classes Order. It follows that the requirements that this use, or Class B1 before 1 September 2020, had taken place for a continuous period for at least 2 years prior to the date of the application have also not been shown to be met. The consequence is that Class MA, for the change of use of a Class E site to a Class C3 use, should not apply because, for the reasons explained, a Class E use has not been adequately demonstrated as the existing use of the premises.

Other Matters

20. The proposal was also refused for six other reasons. Additional evidence from the appellant at the appeal stage concerning flooding (reason 2) and noise (reason 3), have been accepted by the Council on these subjects and I have found no reason to disagree. The related prior approval issues would be satisfied.
21. The separate planning permission to insert further openings into the building has been granted and a planning condition in any approval could require these changes to be made as part of this scheme. These openings would provide light to the associated internal rooms and these changes would address the fourth reason for refusal and the related prior approval issue.
22. The completed Legal Agreement, including the obligation for the related financial sum, would help to promote sustainable transport options and would address the seventh reason for refusal. This obligation would meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
23. In terms of fifth reason for refusal, the Council has raised concerns with the size of bedrooms in Units 6 and 25. In both cases, the bedroom in dispute is shown with a single bed. However, the floorspace in each room is larger than 11.5sqm and would exceed the minimum space for a double bedroom. The Council argue that these bedrooms could, therefore, be used as a double and accommodate two occupants. If these rooms were accepted as double bedrooms, the overall number of residents for each flat would increase by one. However, in both cases, the overall floorspace of each flat is too small for that number of occupants when considered against the Nationally Described Space Standard. I note that in coming to this conclusion, the Council has taken into account the sloping roof within the bedroom in Flat 25 and reduced the calculated floorspace of that bedroom accordingly.
24. Article 3 – 9A of the GPDO, with reference to this issue, states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse that does not comply with the Nationally Described Space

Standard. The Council argue that Units 6 and 25 fail this requirement and would result in cramped accommodation. On this basis, it is argued that the scheme would not be permitted development because of the failure to accord with this part of the GPDO.

25. I have also carefully considered the comments of the appellant on this issue, especially at the final comments stage. With the bedroom in Unit 6, it would be a fairly narrow room and because of this shape it would only be practical to accommodate a single bed. While the floorspace of this room, at 11.86sqm would exceed the area for a double room by 0.38sqm, given the restrictive width, this unit should be considered a 1 person 1 bedroom unit. This unit would, therefore, meet with the required space standard and the related part of the GPDO.
26. Unit 25 is proposed as a 3 person 2 bedroom unit. The overall floorspace of 64sqm for the unit would exceed the space standard requirement of 61sqm if the accommodation had a single and a double bedroom. However, the single bedroom measures 12.40sqm and would exceed the minimum space for a double bedroom. If this room was used as a double then the flat should be considered a 4 person 2 bedroom unit. This would require an overall floorspace of 70sqm to meet with the space standard, and the proposed overall floorspace would be under-sized.
27. The bedroom in dispute in Unit 25 would have some space under a sloping roof which would be less useable. However, the Council has taken into account the slope and reduced the bedroom space in its figure. I consider that the shape and floorspace of this room would be suitable as a small double bedroom. Furthermore, there would also be likely to be some additional, compromised space under the further sections of the sloping roof and this reinforces my view that this bedroom could be used as a double bedroom. Unit 25 should be considered a 4 person 2 bedroom unit.
28. Accordingly, the overall space of Unit 25 would not meet with the space standards and this accommodation would, therefore, not meet with the requirements of Article 3 – 9A of the GPDO. It would not be permitted development on this basis. I am not satisfied that this issue could be addressed by a planning condition in any approval because of the potential requirement to redesign this area to try to resolve the space standard issue.
29. Reason for refusal 6 concerns accessibility and pedestrian safety, and this is related to one of the prior approval requirements. The evidence indicates that the disabled parking spaces would not meet the required layout but could be rearranged to meet the required standard and be accommodated together with a car club parking space for a vehicle. I consider that this could be addressed by a condition in any approval. The provision of the car club space has been confirmed by letter and included as an obligation in the Legal Agreement.
30. I am satisfied by the additional information at the appeal stage, in the form of the Transport Appeal Note (March 2025), that larger vehicles, such as the bin lorry, could enter in forward gear direct from Stafford Road, turn within the site and exit in a forward gear. Also, I note that traffic movements are generally likely to be less with the proposed residential use compared to the historic business use of the site, in whatever Use Class, and therefore the main access and sight lines onto Stafford Road are acceptable.

31. In terms of car parking for the proposed development, I have very carefully considered the Transport Appeal Note, the related arguments, and other information including The London Plan 2021 policies. These policies, amongst other things, state that car-free development should be the starting point for all development proposals in places that are well-connected by public transport, with developments elsewhere designed to provide the minimum necessary car parking. Policy also explains that an absence of local on-street parking controls should not be a barrier to new development and that boroughs should look to implement these controls wherever necessary to allow existing residents to maintain safe and efficient use of their streets.
32. In this case, the site is predominantly within Public Transport Accessibility Level 3 (PTAL), with the access in PTAL 4. Other than the three disabled spaces and the car club space, the scheme would not provide resident parking. The London Plan places a maximum limit on the number of spaces and, as explained, the starting point is car-free development. The Legal Agreement would prevent occupants of the appeal development applying for residents' parking permits and in that respect would be a helpful obligation that may be required in the future, and would meet with the tests for obligations in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
33. However, the area does not presently have a controlled parking zone (CPZ) to the surrounding streets and therefore there would, in practice, be no hinderance to residents of the development parking in surrounding roads at the present time. The Council explain that it would not introduce a CPZ unless local residents were generally supportive.
34. The Transport Appeal Note calculates, as a starting point, there would be a need for 18 parking spaces on this site (3 of which would be the disabled spaces). The Note explains that the latest research² estimates that each car club vehicle provided in the UK replaced between 14 and 32 private cars. It is argued that for this site, even if the lower estimation of 14 private cars were to be replaced by the intended car club vehicle, this would still address the need for 14 of the 15 parking spaces. The point is made, in this worst case scenario, that the lack of one car parking space on the site would not lead to parking stress to the local highway network.
35. It seems that there are undoubted benefits from car clubs and the related obligation in the Legal Agreement would meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. However, the research explains that some of the figures on how many private cars are replaced by a car club vehicle were calculated by averaging the net car loss of the survey respondents across the entire sample. The data is therefore an average range. The research also comments that in London in 2023, one car club vehicle replaced around 15 private cars in real terms (and 32 private cars when factoring in deferred purchases), however, the available information does not discriminate between inner and outer London, or the PTAL.
36. While the car club vehicle is likely to have a positive impact, I am not satisfied that the average finding, on the basis of a range of different situations and locations, can be applied directly in the way proposed to the appeal site so as to be confident

² CoMoUK Annual Car Club Report UK 2023 (published May 2024).

of the anticipated outcome, especially where it relies on the provision of a single car club vehicle. Indeed, the research comments that how many private cars a car club vehicle replaces strongly depends on the context in which a car club operates.

37. In this case, the analysis is assuming that, other than for the users of the disabled parking spaces, the vast majority of the future occupants of the 28 units would not need to use/own a private vehicle or would use the single car-club vehicle. I am not convinced that this would be realistic in the medium to longer term in the context of this site, even if occupants when moving into the units were aware of the lack of dedicated car parking, other than the disabled spaces, at that time.
38. The site has reasonably good accessibility to public transport and the Legal Agreement obligation would help to fund and promote sustainable transport options which would help to mitigate the lack of parking to some extent. However, people's circumstances change, and often there is a need, in locations such as this with the associated PTAL, for a private vehicle to access employment and locations for a variety of reasons. The site is convenient by private vehicle for many employment sites across this section of south London and has reasonable road access to the M25, and towns and business centres in the wider area. I consider it probable that at least some occupants would wish or need to travel in these directions at times and there would be a related need for the use of a private vehicle.
39. My observations of the housing in the surrounding roads is that most properties have off-road car parking, which indicates that private vehicle travel from properties in this area is a reasonably common occurrence. The associated vehicle cross-overs from those houses, some fairly narrow side roads that limit on street car parking and the parking limitations on the more main roads, such as Stafford Road, mean that on-street car parking spaces are fairly limited.
40. All these matters draw me to the conclusion that I am not satisfied by the low level of car parking provision that would be included on the site. I consider that the proposed residential use would generate some additional need for car parking spaces, and that without such spaces provided on site, vehicles would, in all likelihood, spill out into adjoining roads. With the reasonably limited opportunities for road side parking, and in the absence of parking stress surveys which show otherwise, this could lead to the related potential for unneighbourly or potentially unsafe car parking at junctions and other locations. This conclusion is supported by some of the objections to the scheme from local residents who have raised concerns with the lack of car parking that would be provided on the site. The scheme would therefore, in this respect, conflict with Policies T4, T6 and T6.1 of The London Plan 2021 and Policies DM29 and DM30 of the Croydon Local Plan 2018. It follows that the proposal would not satisfy the prior approval matter concerning the transport impacts of the development.
41. In summary on all these other matters, Unit 25 would not meet with the required space standard and therefore the scheme would not be permitted development in this respect. In terms of the transport impacts of the development, I am not satisfied with the car parking arrangements and that this would, in my judgement, likely lead to adverse highway impacts locally. The scheme therefore fails this prior approval requirement.

Conclusion

42. Fundamentally, for the reasons explained in the procedural matters section of this decision, I am not satisfied that the information adequately demonstrates that the existing use of the premises falls solely within Class E use and, therefore, the scheme cannot be considered as permitted development under Class MA of the GPDO.
43. I have also found that the accommodation for Unit 25 would not meet with the required space standard and there would be unacceptable transport impacts in the terms I have concluded above. These are additional matters that would not accord with the permitted development requirements for a Class MA scheme.
44. Consequently, for the reasons explained above, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR