

## **SECTION '2' – Applications meriting special consideration**

**Application No :** 17/02274/B8RES

**Ward:**  
**Bickley**

**Address :** 53 Liddon Road Bromley BR1 2SR

**OS Grid Ref:** E: 541476 N: 168857

**Applicant :** Mr J Green

**Objections : YES**

### **Description of Development:**

Change of use from Class B8 (storage and distribution) to Class C3 (dwellinghouses) to form 11 flats at 53 Liddon Road (56 day application for prior approval in respect of air quality, transport and highways, contamination, flooding risks, noise impacts, sustainability and impact on provision of storage and distribution services under Class P, Part 3 of the GPDO)

### **Key designations:**

Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
River Centre Line  
Smoke Control SCA 13  
Smoke Control SCA 12

### **Proposal**

Prior approval is sought for the change of use of 2 barns/detached buildings on the application site from Class B8 storage to Class C3 dwellinghouses to form 2 one bed and 1 two bedroom residential units.

The proposal includes 11 car parking spaces at the front of the building.

### **Location**

The application site is located on the southern side of Liddon Road, to the north of the gas holder station. The building is two storey with a flat roof construction. The property is served by a gated access from Liddon Road with parking to the front of the premises. The site lies within a predominantly residential area to the north with commercial/industrial building to the south, east and west.

### **Consultations**

#### **Comments from Local Residents**

Nearby owners/occupiers were notified of the application and representations were received which can be summarised as follows:

- lack of sufficient off-street parking provision and lack of sufficient supporting evidence to conclude a satisfactory parking provision in the local highway network. Additional car parking will impact on the amenities of neighbouring residential occupiers.
- Loss of commercial use should not be justified by permitted development schemes on neighbouring sites
- Area requires more housing, including family starter homes, rather than flats. Flats would also be out of character with the area and detrimental to this character.
- Proposal lacks evidence for impact on parking and standard of accommodation to be provided

## Consultations

**Highways** - The site is located within a Low (Very Poor) PTAL area and lies inside the Bromley Town Centre Controlled Parking Zone (CPZ) where there is limited parking available. There is no objection to the change of use however in order to reduce pressure on the existing parking demand in the area, future residents of the development should not be eligible to apply for parking permits. The parking layout is suitable as it is not blocking the entrances to the proposed flats. For residential development an area for storage of recyclables should be considered at a rate of 1 x 240 litre wheeled bin for paper, 1 x 240 litre wheeled bin for glass/plastic/cans and 1 x 1100 euro containers for general non-recyclable waste per 6 units. The space should also accommodate 1 x 240 wheeled bin for food waste per 20 dwellings. Also the bin store doors opens outwards in to the narrow entrance to the rear car park and this could be a safety hazard. The location of the waste storage should be provided as this could potentially have a knock on effect on the parking layout. The cycle parking requirements are set out in Table 6.3 of the London Plan. The requirement is for 1 cycle spaces to be provided per 1 bed unit. Policy 6.9 (B)(a) states that developments should provide integrated, convenient and accessible cycle parking facilities. The applicant should submit a site plan showing a secure cycle store of sufficient dimensions to accommodate 11 cycles. Conditions are recommended in line with the above.

**Environmental Health (Pollution)** - A similar Application in respect of 55 Liddon Road by the same Applicant was accompanied by a comprehensive Contamination Assessment which recommended remediation works to be carried out. Whilst it is appreciated that no external works are proposed at 53 Liddon Road it is likely that this site is similarly contaminated, and should the ground be opened for drainage, services, or even re-laying hard landscaping then this could put workers and others at risk. Such works may not require Planning Permission and therefore the Council would be unaware. A condition should be imposed prohibiting the disturbance of the ground without notifying the LPA then this would be my preferred option. Without such a condition there is a concern that the proposed works would result in a likelihood of contamination risk in the future for which there would be no other mechanism for mitigation.

**Environmental Health (Housing)** - no floor plans are submitted and therefore it is not possible to make comment on the layouts. Concern would be raised over inadequate light and ventilation to the proposed flats, however it is noted that the layout is not a consideration under the terms of the application.

**Drainage Officer** - no comments are made and the Environment Agency will be required to comment on flood risk.

**The Environment Agency** - initially objection was raised on the basis of an inadequate Flood Risk Assessment. The Environment Agency Product 4 data within the submitted FRA is from August 2106. The Ravensbourne modelling has since been updated including site specific climate change allowances. As a result we would insist that you obtain an updated Product 4 and update the submitted FRA accordingly with this new information especially in regards to ascertaining appropriate finished floor levels designed against the appropriate allowance for climate change. In addition, as stated within the Bromley Strategic Flood Risk Assessment section 11.2.1, 'wherever possible, floor levels should be situated a minimum of 0.3m above the 1% with climate change flood level'. The EA would seek that finished floor levels are designed according to this requirement including the 300mm freeboard. This is justified due to the presence of ground floor sleeping accommodation which we would usually advise against if avoidable.

Following the submission of further updated FRA information, the EA has commented that we have reviewed the proposal and would have no objection, but we would highlight our concerns.

Recommendations: The site is situated partially within Flood Zone 2 and under National Planning Policy Framework (NPPF) would be considered 'more vulnerable'. Reviewing the submitted information we note that the submitted Flood Risk Assessment (FRA) for this site is actually for the neighbouring site of 55 Liddon Road. While the developments are similar we would highlight that each different site should have its own assessment of flood risk. As a result the recommendations within the FRA may not apply to the proposed development as ground levels may differ as well as finished floor levels.

The Environment Agency Product 4 data used within the FRA has since been updated to include new climate change values. Unfortunately the new model data for the river Ravensbourne does not include this location, due to the river entering into the culvert. As a result we cannot guarantee the site will not flood because we have historical record of the area being inundated in September 1968. As with the neighbouring site we would expect the finished floor levels to be raised in order to appropriately mitigate against internal flooding. We would expect the finished floor level to be raised by no less than 300mm above the existing finished floor level as with the previous development which the FRA is based on. We would also highlight that the site boundary has the culverted river Ravensbourne (East Branch) running along it.

It should be noted that we are against encroachment within the 8 metres of the watercourse, especially when culverted, as we would require this space for access and maintenance of the culvert. We would strongly insist that there be suitable amount of space to ensure these works can be carried out if necessary in the future. Reviewing proposals we note that there is an existing building running parallel to the watercourse. From our review of the planning application there are no planned works for this structure. Please note that we would not approve of any excavations or structures which could damage, undermine or restrict access to the culvert. Please note that any works within 8m of the culvert will require a Flood Risk Activity Permit under the Environmental Permitting (England and Wales) Regulations 2016. Please see our website for further information: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

### **Planning Considerations**

The Town and Country Planning (General Permitted Development) Order 2015 Class P (as amended) allows for the change of use of a building and any land within its curtilage from a Class B8 (storage and distribution centre) use to a use falling within Class C3 (dwelling houses) subject to certain restrictions and conditions. The change of use from B8 (storage and distribution centre) to C3 (residential) is subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether prior approval will be required as to:

- o Impacts on air quality on intended occupiers of the development
- o Transport and highways impacts of the development
- o Contamination risks in relation to the building
- o Flooding risks on the site.
- o Noise impacts of the development
- o Whether residential use will have an adverse impact on the sustainability of the provision of storage or distribution services or industrial services or a mix of those services.

Paragraph W (10) requires the local planning authority, when determining an application for prior approval, to have regard to the National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012 and the guidance relating to transport, flood risk, land contamination, the economy and noise is a material consideration in the determination of applications for prior approval.

The London Plan (2015)

- 4.4 Managing Industrial Land and Premises
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 6.9 Cycling
- 6.13 Parking
- 7.15 Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes.

Unitary Development Plan

- EMP4 Business Areas.
- T3 Parking
- T18 Road Safety
- ER 7 Contaminated Land

The Council is preparing a Local Plan. The submission of the Draft Local Plan was made to Secretary of State on 11th August 2017. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

- Draft Policy 1 - Housing Supply
- Draft Policy 4 - Housing Design
- Draft Policy 30 - Parking
- Draft Policy 32 - Road Safety
- Draft Policy 33 - Access for All
- Draft Policy 37 - General Design of Development
- Draft Policy 77 - Landscape Quality and Character
- Draft Policy 82 - Locally Significant Industrial Sites
- Draft Policy 112 - Planning for Sustainable waste management
- Draft Policy 113 - Waste Management in New Development
- Draft Policy 114 - New Waste Management Facilities and Extensions and Alterations to
- Draft Policy 115 - Reducing Flood Risk
- Draft Policy 116 - Sustainable Urban Drainage Systems (SUDS)
- Draft Policy 117- Water and Wastewater Infrastructure Capacity
- Draft Policy 118 - Contaminated Land
- Draft Policy 119 - Noise Pollution
- Draft Policy 120 - Air Quality
- Draft Policy 123 - Sustainable Design and Construction
- Draft Policy 124 - Carbon dioxide reduction, Decentralise Energy networks and Renewable Energy

### **Planning History**

Planning permission was granted under ref. 00/01994 for extension to side and increase roof height of existing storage building.

Planning permission was granted under ref. 00/01999 for a two storey side extension and 2 additional car parking spaces.

Planning permission was granted under ref. 01/02464 for continued use as a storage building without compliance with condition 03 of permission 00/01994 to allow insertion of mezzanine floor.

## **Conclusions**

### Class P

Class P permits development consisting of a change of use of any land within its curtilage from a use falling within Class B8 (storage or distribution centre) to a use falling within Class C3 (dwellinghouses) if the property meets the criteria within P.1 and the conditions within P.2

Development is not permitted by Class P where:

- (a) the building was not used solely for a storage or distribution centre use on 19th March 2014 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
- (b) the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins.
- (c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 15th April 2018.
- (d) the gross floor space of the existing building exceeds 500 square metres.
- (e)/(f) the site is occupied under an agricultural tenancy.
- (g) the building is within AONB/The Broads/National Park/World Heritage Site a listed building or within curtilage of listed building
- (h) the site is or forms part of a SSSI/Safety hazard area/Military Explosives Area
- (i) the building is a listed building or is within the curtilage of a listed building
- (j) the site is a scheduled monument

The gross floor spaces of the existing building is 390m<sup>2</sup> (not exceeding 500m<sup>2</sup>)

The site is not an agricultural tenancy.

The building is not AONB, within The Broads, a National Park or a World Heritage Site

The site is not nor does it form part of a SSSI. There are no safety hazard or military explosives storages within the Borough.

The building is not a listed building or a scheduled monument.

Class W sets out the procedure for prior approvals under Part 3. Section W(3) states that:

The local planning authority may refuse an application where, in the opinion of the authority -

- (a) the proposed development does not comply with, or
- (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question

Class W(4) goes on to state that sub-paragraphs (5) to (8) and (10) do not apply where the local planning authority refuses an application under sub-paragraph (3).

The property is currently in use as a storage and distribution facility (Class B8) and the recent planning history supports this use going back to before 2000. An Officer visit to the site confirms the current storage and distribution use. The Council is therefore satisfied that the use has existed for a period of at least 4 years before the date of the development under Class P would commence. The proposal therefore complies with Part C of Class P.

The following issues have also been assessed.

#### 1. Air quality on intended occupiers of the development

The Environmental Health Officer has not raised objection in respect of air quality.

#### 2. Transport

The Council's Highway Engineer was consulted. No objections were raised in principle subject to conditions in line with the comments in the Consultations section above.

#### 3. Contamination

The Environmental Health Officer has commented that a similar Application in respect of 55 Liddon Road by the same Applicant was accompanied by a comprehensive Contamination Assessment which recommended remediation works to be carried out. Whilst it is appreciated that no external works are proposed at 53 Liddon Road it is likely that this site is similarly contaminated, and should the ground be opened for drainage, services, or even re-laying hard landscaping then this could put workers and others at risk. Such works may not require Planning Permission and therefore the Council would be unaware. A condition should be imposed prohibiting the disturbance of the ground without notifying the LPA then this would be my preferred option. Without such a condition there is a concern that the proposed works would result in a likelihood of contamination risk in the future for which there would be no other mechanism for mitigation.

Therefore Officers are satisfied that, subject to a suitable condition as outlined above, there is no sustainable objection in regards to risk of contaminants being present at the site that might compromise the health or safety of any future residential occupiers.

#### 4. Flood Risk

The application site is within Flood Zone 2. A site specific Flood Risk Assessment has been submitted with the application. The Environment Agency have no objected.

#### 5. Noise

The Environmental Health Officer has commented that there would be no potential impact in terms of noise. Officers are satisfied that due to location of the units, the planning history and the current use of the site, there is a low risk of noise from the development on surrounding residential properties or noise from surrounding industrial uses on the future occupiers of the site.

#### 6. Impact on the sustainability of the provision of storage or distribution services or industrial services or a mix of those services

P.2 (b) (vi) states where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

Policy EMP4 consistent with the NPPF requires that Use Classes B1, B2 and B8 are retained in designated Business Areas.

The supporting text for Policy EMP4 states:

'10.18 The Business Areas consist largely of land with established light industrial and warehousing uses. The Council wishes to safeguard a supply of such land in the Borough to provide for the growth and development of business and industry. Consequently, proposals in the Business Areas for uses not within Use Classes B1 to B8 will not normally be permitted.

10.19 The Business Areas provide appropriate locations for uses within the Business (B1) and General Industry (B2) Use Classes. The St Mary Cray Business Area in the London Plan as an Industrial Business Park. Proposals likely to be detrimental to the amenities of adjoining residential areas, however, by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, will be resisted.

10.20 Analysis has shown that the supply of vacant industrial sites and premises in the Borough is diminishing and that most do not generally remain vacant or undeveloped for long. In these circumstances, the extent of the Business Areas shown on the Proposals Map represents a sufficient, though limited, supply of good quality sites for modern business development.

10.21 Although there are many cases of retail uses having become established in the Business Areas, the demand for new business premises is strong and the supply of suitable land for business development in the Borough limited. Proposals for retail uses in Business Areas will therefore not normally be permitted.'

The proposal has been submitted to Council under amended permitted development rights for conversion of Class B8 premises to a Class C3 use. Whilst relevant business and employment policies are outlined above, it is important to distinguish planning policy considerations under permitted development rights (for conversion of Class B8 units to Class C3) from those under a standard change of use planning application.

Under Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015, particular attention is given to P.2(b)(vi). This paragraph states that the Council is to determine whether prior approval is required as to: where it considers the building is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

Although the site is located in the Homesdale Road Business Area under the UDP, it is a non-designated site under the Draft Local Plan. The three premises fronting Liddon Road are the only remaining Class B uses in the Business Area. Of these, only the subject site is used entirely for a storage or distribution or industrial service. The neighbouring property at 55 Liddon Road has current approval under permitted development rights for conversion of Class B1a units to Class C3. Further, the Gasholder site to the south is proposed as a site allocation for housing-led mixed use under the Draft Local Plan.

Taking this into account, the location of the site can no longer be considered important for providing storage or distribution and/or industrial services. Therefore, it is considered that the requirements of P.2(b)(vi) are satisfied in this case.

## **Summary**

On balance it is considered that the proposal would satisfy the criteria as set out within Class P, Part 2 of the General Permitted Development Order and therefore it is recommended that Members grant prior approval subject to conditions.

Background papers referred to during production of this report comprise all correspondence on file ref: 17/02274/B8RES, excluding exempt information.

## **RECOMMENDATION: PRIOR APPROVAL REQUIRED AND GRANTED**

- 1 Before any work is commenced details of parking spaces and/or garages and sufficient turning space shall be submitted to and approved in writing by the Local Planning Authority and such provision shall be completed before the commencement of the use of the land or building hereby permitted and shall thereafter be kept available for such use. No development whether permitted by the Town and Country Planning (General Permitted Development Order) 1995 (or any Order amending, revoking and re-enacting this Order) or not, shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.**

**REASON:** In order to comply with Policy T3 of the Unitary Development Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

- 2 Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority before any part of the development hereby permitted is commenced and the approved arrangements shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.**

**Reason:** In order to comply with Policy BE1 of the Unitary Development Plan and in order to provide adequate refuse storage facilities in a location which is acceptable from the residential and visual amenity aspects.

- 3 Before any part of the development hereby permitted is first occupied, bicycle parking (including covered storage facilities where appropriate) shall be provided at the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and the bicycle parking/storage facilities shall be permanently retained thereafter. 1 space shall be provided per studio and 1 bedroom unit and 2 spaces for all other dwellings.**

**Reason:** In order to comply with Policy T7 and Appendix II.7 of the Unitary Development Plan and in order to provide adequate bicycle parking facilities at the site in the interest of reducing reliance on private car transport.

- 4 No disturbance of the ground for services or landscaping purposes shall occur until Local Planning Authority is notified.**



**Reason:** In order to ensure that any potential ground contamination is effectively mitigated.

- 5** Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is commenced. The approved scheme shall be self-certified to accord with BS 5489 - 1:2003 and be implemented before the development is first occupied and the lighting shall be permanently retained thereafter.

**Reason:** In order to comply with Policy T3 and Appendix II of the Unitary Development Plan in the interest of visual amenity and the safety of occupiers of and visitors to the development.

- 6** Prior to the commencement of the development hereby permitted a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include measures of how construction traffic can access the site safely and how potential traffic conflicts can be minimised; the route construction traffic shall follow for arriving at and leaving the site and the hours of operation, but shall not be limited to these. The Construction Management Plan shall be implemented in accordance with the agreed timescale and details.

**Reason:** In order to comply with Policy T5, T6, T7, T15, T16 & T18 of the Unitary Development Plan and in the interest of the amenities of the adjacent properties.

- 7** Surface water from private land shall not discharge on to the highway. Details of the drainage system for surface water drainage to prevent the discharge of surface water from private land on to the highway shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of works. Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter.

- 8** Before the development hereby permitted is occupied arrangements shall be agreed in writing with the Local Planning Authority and be put in place to ensure that, with the exception of disabled persons, no resident of the development shall obtain a resident's parking permit within any controlled parking zone which may be in force in the vicinity of the site at any time.

**Reason:** In order to comply with Policy T3 of the Unitary Development Plan and to avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

**You are further informed that :**

- 1** Your attention is drawn to the following legislation, British Standard and Government advice concerning means of access for people with disabilities:-

- o The Disability Discrimination Act (DDA)1995 (extended 2005)
- o BS 8300: Design of buildings and their approaches to meet the needs of disabled people (2001)
- o Approved Document M of the Building Regulations 2000 'Access and Facilities for Disabled People' made under the Building Act 1984, as amended.
- o DDA Code of Practice 2006 Rights of Access to Goods, Facilities Services and Premises (Disability Rights Commission)
- o DDA Code of Practice 2004 : Employment and Occupation (Disability Rights Commission)

You should contact extension 4621 (020 8313 4621 direct line) at the Environmental Services Department at the Civic Centre with regard to the laying out of the crossover(s) and/or reinstatement of the existing crossover(s) as footway. A fee is payable for the estimate for the work which is refundable when the crossover (or other work) is carried out. A form to apply for an estimate for the work can be obtained by telephoning the Highways Customer Services Desk on the above number.

**Street furniture/ Statutory Undertaker's apparatus "Any repositioning, alteration and/ or adjustment to street furniture or Statutory Undertaker's apparatus, considered necessary and practical to help with the modification of vehicular crossover hereby permitted, shall be undertaken at the cost of the applicant."**