

SECTION '2' – Applications meriting special consideration

Application No : 10/00210/FULL2

Ward:
Bromley Town

Address : Unit 4 21 Waldo Road Bromley BR1 2QX

OS Grid Ref: E: 541583 N: 168664

Applicant : Mr N Thompson

Objections : YES

Description of Development:

Change of use from food preparation (sui generis) to music rehearsal training centre (Class D1).

Key designations:

Flood Zone 2

Flood Zone 3

This application was originally reported to Members of the Plans Sub-Committee at the meeting held on 12th August 2010, with a recommendation that planning permission be granted on the basis of all information available at the time. Members deferred the application in order that the applicant could consult with Environmental Health and consider any further proposals for additional noise and vibration attenuation.

At the meeting, it is understood that Members were concerned that the noise survey initially undertaken did not address ground borne noise or vibration. In response to this point, the applicant submitted additional comments (dated 6th September 2010) from 'Sound Analysis Ltd.' who had prepared the noise survey in support of the application, which stated that in their professional opinion there is no possibility of music recording or rehearsals at the premises creating ground vibration that would effect the nearest residential properties in any way.

However more recently and in light of on-going complaints from local residents, Environmental Health have continued to monitor the use of the premises with regard to noise and disturbance. Following a number of visits to the site and neighbouring residential properties, Environmental Health has advised the following:

"The specification for sound-proofing, which was submitted as part of the application is acceptable. The work has now been completed and approved by the consultant who drew up the specification but complaints have been

received from a number of neighbouring residents alleging noise break-out. Visits by several Officers of EHTS have found these complaints to be justified, and have confirmed that there is a loss of amenity resulting from noise associated with the use. It is evident that much of the work has been carried out to a poor standard and this would explain why the structure does not provide the predicted level of sound insulation. After negotiations with the applicant a number of improvements were made; however these have resulted in no appreciable increase in sound insulation.”

On the basis of the above, Environmental Health have recommended that planning permission be refused on the grounds of loss of amenity to neighbouring residents.

Since the application was previously reported, further representations have been received from local residents which can be summarised as follows:

- level of noise unbearable (bass sounds and continuous thud) and can be heard through double-glazed windows
- concern as spring and summer months approach affecting enjoyment of gardens
- unfair on local residents
- hours of operation are unreasonable

An updated report is set out below, although Members should be aware that the recommendation has been amended to reflect the most recent Environmental Health comments.

Proposal

Planning permission is sought for the change of use of the premises from food preparation (sui generis) to music rehearsal training centre (Class D1). This use has already commenced.

A design and access statement has been submitted in support of the application, the main points of which can be summarised as follows:

- there is strong demand for rehearsal space in Bromley
- site chosen for its size and location away from residential properties yet still close to transport links
- expected traffic concentrated around 6.30pm – 8.00pm weekdays and Sundays
- at these times the Waldo Road Council depot is shut, ensuring that there would be no adverse impact on local traffic
- premises heavily soundproofed
- no external changes proposed
- opening hours 10.00am to 11.00pm Monday to Sunday
- estimated that 8 jobs would be created
- lack of similar facilities in the borough

In addition, further information has been submitted concerning the details of sound attenuation measures that have been incorporated into the construction of the rehearsal rooms, and the results of independent acoustic testing which was carried out to measure sound levels outside the premises.

Location

The application site is located on the northern side of Waldo Road, Bromley, and comprises an industrial unit forming part of a group of 4 units at No. 21. The immediate surrounding area is predominantly industrial/commercial; although there are residential properties located approx. 50m to the south on Mornington Avenue, and approx. 52m to the north on Homesdale Road (beyond the adjacent railway lines).

Comments from Local Residents

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

- noise and disturbance
- exacerbates existing noise and disturbance issues which arise from nearby Waldo Road refuse site
- concerns regarding hours of operation and fact that premises proposed to operate 7 days a week

Comments from Consultees

Environmental Health (pollution) advises that planning permission should be refused on the basis of noise and disturbance arising from the use.

From the technical Highways perspective, no objections are raised.

Planning Considerations

The main planning policies of relevance to this application are as follows:

Unitary Development Plan

BE1 Design of New Development
C1 Community Facilities
EMP6 Development Outside Business Areas
T18 Road Safety

The London Plan

4A.20 Reducing Noise and Enhancing Soundscapes

National Planning Policy

PPG 24 Planning and Noise

Planning History

Under ref. 04/01605, planning permission was granted for the change of use of the premises from light industry (Class B1) to use of premises for food production, packaging and delivery to customers.

Conclusions

The main issues for consideration in this case will be the acceptability of the change of use in principle, having regard to the submission that it would meet a community need and since it would appear to be a non-conforming business use (having regard to the Council's Business and Regeneration Policies); the impact of the use to the character of the area and the amenities of neighbouring residential properties (with particular regard to noise and disturbance); and the impact to conditions of road safety.

Members may agree that the proposed use, which the Applicant indicates would meet a community need (in view of the lack of similar facilities in the borough) may be acceptable as a community facility on the basis that it would be accessible by means other than the car and would be accessible to the members of the community it is intended to serve.

With regard to the principle of the use which would fall within Class D1 (assembly and leisure) of the Use Classes Order, Members will be aware that it would not constitute a 'conforming' business use. However, Policy EMP6 provides that where outside of the designated business areas (as is the case here) non-conforming business uses may be acceptable provided there is no significant adverse impact on the amenity of the surrounding properties. In this case, it is not considered that the surrounding industrial/commercial units would be significantly affected by the use. Indeed Members will note that no adverse comments have been received from these properties.

Turning to the second issue, it is not considered that the use of the premises would result in significant harm to the character of the area. Although primarily industrial/commercial in nature, the use of the premises would in spite of its Class D1 classification involve the provision of service (i.e. rehearsal rooms for hire) and may not be significantly dissimilar in its nature to adjacent uses.

With regard to the impact to the amenities of neighbouring residential properties, Members will note that many local residents (primarily from Mornington Avenue to the south) have objected on the grounds of noise and disturbance. Environmental Health have continued to monitor the use of the premises, and following visits by several officers have found the complaints from residents to be justified, and have confirmed that there is a loss of amenity resulting from noise associated with the use. Environmental Health consider that much of the sound insulation work has been carried out to a poor standard, which may explain why the structure does not provide the predicted level of sound insulation. Recent negotiations had led to a number of improvements being made inside the building, however these do not appear to have resulted in any appreciable increase in sound insulation.

Finally, with regard to the impact of the use to conditions of road safety, Members may agree that in view of the technical Highways comments received, a significant impact may not arise.

In light of the above Members will need to carefully consider the acceptability of the proposed use in view of the technical advice of Environmental Health and the nature and extent of objections received locally. However, may agree that in the circumstances, planning permission should be refused on amenity grounds. In addition, in view of the fact that the use has already commenced, Members may wish to consider the expediency of enforcement action.

Background papers referred to during production of this report comprise all correspondence on files refs. 10/00210 and 04/01605, excluding exempt information.

as amended by documents received on 07.07.2010

RECOMMENDATION: PERMISSION BE REFUSED

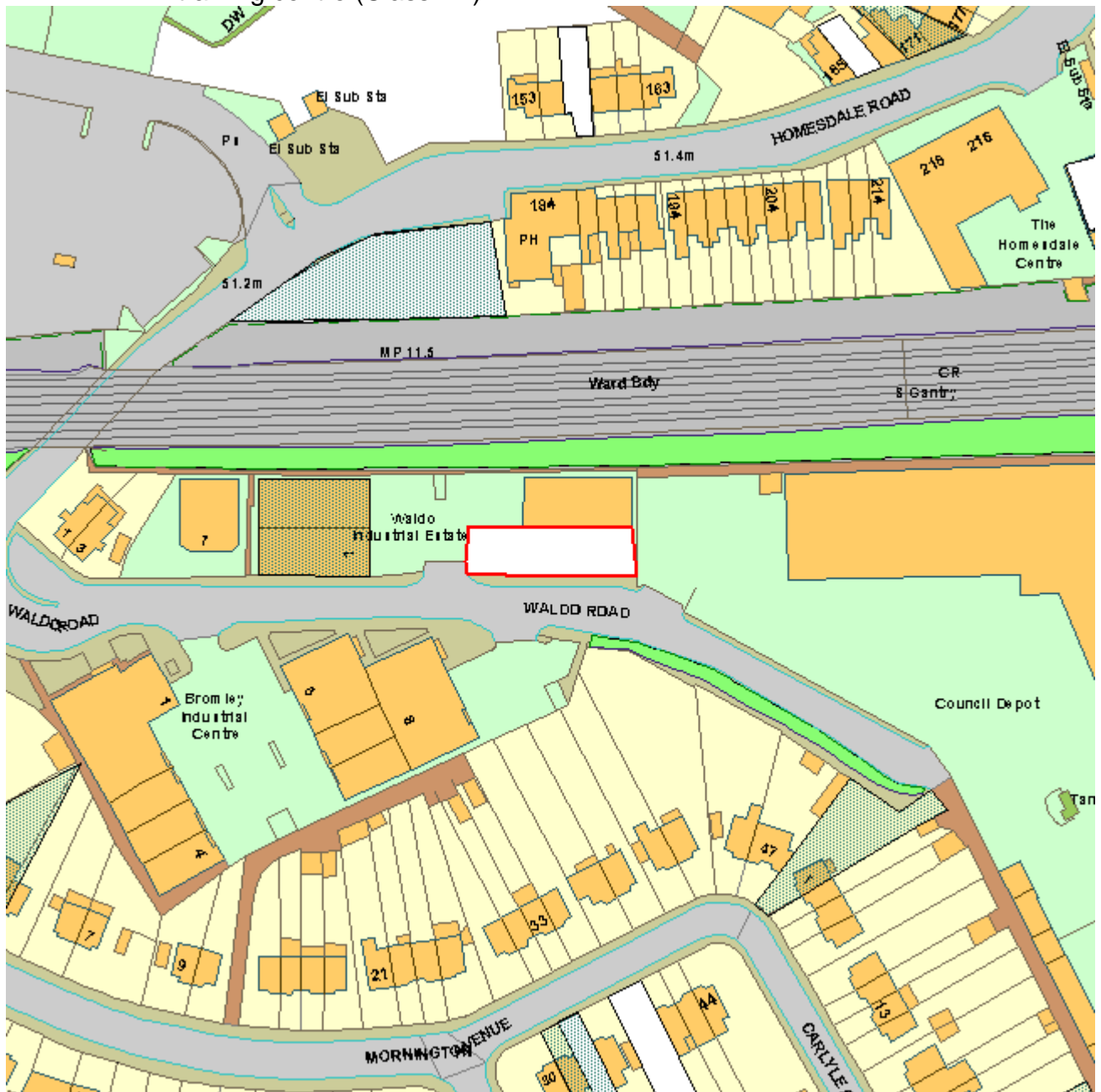
The reasons for refusal are:

- 1 The continued use of the premises as a music rehearsal training centre would give rise to an unacceptable loss of amenity to nearby residential properties by reason of amplified music which is audible outside of the premises resulting in noise and disturbance, contrary to Policies BE1 of the Unitary Development Plan and 4A.20 of the London Plan.

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