



Appeal Decision

Inquiry Held on 27 and 28 November 2017 and 5 December 2017

Site visits made on 27 and 28 November 2017

by **J Dowling BA(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 January 2018

Appeal Ref: APP/D5120/W/17/3172765

Fraser House, Europa Trading Estate, Fraser Road, ERITH DA8 1QL

- 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 Mr Solomon Grunfeld (Primeregal Limited) against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/02374/FUL, dated 22 September 2016, was refused by notice dated 30 November 2016.
 - The development proposed is continued mixed use of the building with retention of 3 No existing Class B1 units on the ground floor and 19 No live/work (Sui Generis) units to the upper floors. Minor alterations to accommodate a new communal refuse store adjacent to the main entrance on the ground floor. Alterations to internal layouts on upper floors and insertion of roof lights to front and rear roof slopes.
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Decision

1. For the reasons that follow I dismiss the appeal insofar as it relates to the 19 No live/work (Sui Generis) units on the upper floors. Alterations to internal layouts on upper floors and insertion of rooflights to front and rear roof slopes. I allow the appeal however, insofar as it relates to the remainder of the application and grant planning permission for the continued use of 3 No Class B1 units on the ground floor and minor alterations to accommodate a new communal refuse store adjacent to the main entrance on the ground floor at Fraser House, Europa Trading Estate, Fraser Road, Erith DA8 1QL in accordance with the terms of the application Ref 16/02374/FUL, dated 22 September 2016 subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Inquiry sat for three days. I had an accompanied site visit on the 28 November 2017 and I undertook an unaccompanied site visit on the 27 November 2017.
 3. The development detailed on the planning application form referred to light industrial (class B1) units. However, light industrial is not referred to in the definition of Class B1 as set out in the Town and Country Planning (Use Classes) Order (1987) (as amended). Following discussions at the Inquiry the parties agreed that for clarity the description of development should be amended to refer to Class B1 units. I have therefore amended the banner heading accordingly.
 4. The development is described as, amongst other things, the continued mixed use of the building with the retention of 3 No existing Class B1 units on the
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ground floor and 19 No live/work (Sui Generis) units to the upper floors. Having visited the site I can confirm that such uses are operating from the building. However, the plans submitted with the appeal would result in alterations to the internal layouts. Therefore, whilst the number of units would remain the same the layouts would change and it is this 'proposed' development as shown on the plans, rather than how the units are currently operating, that I have considered.

5. A Statement of Common Ground (SoCG) was submitted at the Inquiry which set out the policy context along with matters of agreement and those in dispute.
6. The site has been referred to as being located within the Europa Trading Estate and the Fraser Road Primary Employment Area (PEA). For clarity the Fraser Road PEA covers a wider area and includes the former Atlas Interiates Works site. However, for the purpose of this decision letter both titles are used interchangeably.
7. On the basis that the site is located within a recognised industrial estate the Council, subject to a number of suggested conditions, consider that the use of the ground floor for B1 use would comply with the relevant development plan policies and as a result did not object to this element of the scheme.
8. Prior to the start of the Inquiry the appellant submitted a draft condition to address the issue of on-site parking. At the start of the Inquiry the Council confirmed that they considered the use of such a condition would address their concerns regarding the free flow of traffic and highway safety. As a result they considered, subject to the imposition of such a condition, that their second reason for refusal and the reference to parking provision in the third reason for refusal had been satisfactorily addressed.
9. At the close of the Inquiry the appellant submitted a completed Unilateral Undertaking (the UU). The UU would provide a financial contribution to fund the delivery of affordable housing off site. At the Inquiry the Council confirmed that the UU would resolve the fourth reason for refusal
10. In light of all I have read, heard and seen I have no reason to disagree with the Council on these matters and I have revised the main issues to reflect this.

Main Issues

11. Based on the original reasons for refusal and the evidence submitted and heard in relation to the appeal I consider that the main issues are:
 - The effect of the proposal on primary employment land and the effect that this would have on the supply of commercial and industrial uses and the ability to support employment in the area; and
 - The effect on the living conditions of future occupiers with particular reference to noise and disturbance; floorspace; amenity space and outlook.

Reasons

Policy background

12. In accordance with the statutory presumption in Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of

- any application is the statutory development plan. For this appeal the development plan for the area consists of the London Plan (2016); the London Borough of Bexley Core Strategy (2012)(the Core Strategy) and the saved policies of the London Borough of Bexley Unitary Development Plan (2004) (the Saved Policies).
13. The appellant raised concerns over the relevance of the Saved Policies given their age. Furthermore they advocated that when the Unitary Development Plan was adopted live/work units were not a common use and as such they claim would not have been considered by the Council when they drafted this document.
 14. However, the National Planning Policy Framework (the Framework)¹ advocates that the closer the policies in the development plan are to the policies in the Framework, the greater the weight that they may be given.
 15. The policies relevant to the determination of this appeal are Saved Policies ENV39, E1, E3, H3, H6, H7, H11, T17 and TS7; Core Strategy policies CS01, CS04, CS09, CS12 and CS13 and London Plan policy 4.4.
 16. Policy ENV39 states that the Council will seek to ensure that new development is satisfactorily located and requires that development is compatible with the character of the surrounding area and is not by reason of its location adversely affected by noise or emissions that may already be in existence within the neighbourhood.
 17. According to policy E1 the Council will resist proposals for commercial uses unless a number of conditions including no material adverse effects on the health, safety or amenities of the occupants of neighbouring residential areas are met.
 18. Policy E3 encourages industrial and commercial uses to locate in designated Primary Employment Areas (PEA) and safeguards the land and buildings within these areas for appropriate industrial and commercial uses. The site falls within the Fraser Road PEA and for this area policy TS7 states that the only land uses that will normally be permitted are:
 - business;
 - storage and distribution;
 - general industry;
 - road haulage and supporting services; and
 - hiring of plant and equipment.
 19. Residential development will not normally be permitted in locations which are, or are expected to become, subject to excessive noise (policy H3). Furthermore residential development should normally provide on-site amenity space (policy H6) and a reasonable degree of privacy and outlook (policy H7). Policy H11 sets out a number of criteria that residential conversions need to achieve. Both residential and commercial uses are required to provide off-street parking spaces in accordance with the Council's adopted standards (policy T17).

¹ Paragraph 215

20. Whilst these policies predate the Framework I consider that they accord with the aims of the Framework which amongst other things seeks to ensure a good standard of amenity for all existing and future occupants of buildings; requires Councils to plan proactively to meet the needs of business and seeks to minimise the need for travel. As a result I consider that these policies can be given significant weight.
21. In line with the requirements of the Framework policy CS01 seeks to secure sustainable development by amongst other things minimising the distances people need to travel. Policy CS09 also seeks the sustainable use of Bexley's resources including reducing the conflict between adjoining land uses which, it advocates, is fundamental to providing a good quality of life.
22. The Core Strategy includes a number of policies which seek to maximise employment opportunities in the borough. Policy CS04 sets out a vision for the Erith geographic region which includes making a contribution to employment growth through designated employment sites and supporting the improvements to the environmental quality of industrial estates. Policy CS12 seeks to ensure a sufficient and appropriately located provision of employment land by amongst other things safeguarding existing employment land and supporting growth and intensification of employment around Erith.
23. The Council aim to assist in developing a strong and stable local economy by supporting development proposals that diversify the local employment offer; support proposals that would raise employment densities and broaden the mix of business uses; reduce residents need to travel; ensure that new development improves the quality of industrial estates and encouraging the development of appropriate home bases businesses and enhancing residents opportunities to work from home (policy CS13).
24. In addition the appellant further identified support for live work units in policy CS16 which seeks to minimise the need for and distances that people need to travel. This includes, amongst a number of other initiatives, the promotion of live/work accommodation in appropriate developments (CS16b). This policy is consistent with the Framework² which advocates that Council's should facilitate flexible working practices such as the integration of residential and commercial uses within the same unit
25. These policies are consistent with the aims of the Framework and as a result I consider that I can give these full weight.
26. Finally policy 4.4 of the London Plan seeks to manage industrial land to ensure a sufficient stock of land and premises and to manage the release of surplus industrial land so that it can contribute to strategic and local planning objectives.
27. The Council have also referred to the Unitary Development Plan Design and Development Control Guidelines (2004) Nos 3 and 5 which provide further detailed guidance on residential conversions (3) and highways considerations in development control (5).

² Paragraph 21

The effect on primary employment land

28. Both parties accept that live/work units generate an element of employment. However, the Council concerns are fourfold. Firstly, they believe that the levels of employment generated by live/work units would be less than if the building was in a 100% commercial use. Secondly over time, due to enforceability issues, they consider that the work element of the units could fall away and the use could become solely residential which would result in the permanent loss of employment floorspace at the site. Thirdly, they argue that live/work units are not an accepted use at the Fraser Road PEA and finally they judge that the introduction of a residential element in the estate could compromise the way that other users operate which may, in the long term, result in the loss of those other uses thereby adversely affecting the ability of the wider industrial estate to support employment in the area.

Levels of employment

29. I accept that due to the open plan nature of the units there would be a fluidity in the way in which the space would be used. However, I consider that the units would be laid out in such a way that elements such as bedrooms would predominantly serve the live need of future occupiers. Furthermore, whilst I accept that small commercial units may have the benefit of kitchen and bathroom facilities these are often provided communally rather than on an individual unit basis. As a result I agree with the Council that the live/work units could produce employment levels below those that could be achieved if all the floorspace in the building was in a purely commercial use. However, none of the policies referred to by the Council set thresholds for the levels of employment that sites should deliver and as such, subject to meeting the other policy criteria, I consider that as the proposals would deliver some employment that the proposal would not necessarily be contrary to policy.

Enforceability

30. I am concerned that given the types of uses carried out at live/work units and the lack of a designated area for work within these units any conditions imposed to ensure that the units would be used in the way outlined by the appellant at the Inquiry could be difficult to enforce. However, just because a condition may be difficult to enforce does not necessarily mean it is unenforceable. The appellant has suggested a condition based on the wording of an earlier appeal decision³ for live/work units. This would require the appellant on an annual basis to provide the Council with details of how the units are being operated. I consider that such a condition would meet the test for conditions set out in the Framework⁴ and most importantly for the Council would provide them with the relevant information to ensure that they could monitor whether the commercial element was being maintained. As a result I am satisfied that the condition could be enforced and therefore the employment element could be maintained in perpetuity. Consequently, I consider that the proposal would not necessarily result in the total loss of employment floorspace.

³ PINS ref: APP/Y5420/C/08/2063240

⁴ Paragraph 206

Not an accepted use at the site

31. Saved policy TS7 lists five uses that the Council consider acceptable on the Fraser Road PEA. Live/work units are not included in this list. Whilst the Council consider that this is a closed list the appellant disagrees, advocating that saved policy E3 also allows Sui Generis uses, such as live/work units, in PEAs.
32. The reference to Sui Generis uses is made in the supporting text to the Saved Policies where for the purpose of the plan a definition of what constitutes industrial and commercial uses is provided. After providing a list it states that '*Sui Generis uses...will be considered on their individual merits having regard to the objectives and policies for each area and the appropriateness of the use in each location*'. Therefore whilst I agree with the appellant that in principle live/work uses because they are a Sui Generis could be located within PEAs this is in the context of policy TS7 and the appropriateness of the use in Fraser Road. Policy TS7 does not include live/work units so therefore it is the appropriateness of the use to the location that falls to be considered. For the purposes of this appeal I consider that this means the effect that the proposed use could have on other users of the site which will be considered in the following section under noise and disturbance.

Effect on other users of the site

33. This is considered in more detail in the next section under noise and disturbance.

Effect on living conditions

Noise and disturbance

34. I observed at my site visit that the Europa Industrial Estate, where the appeal site is located, contains a wide range of industrial and business uses. These uses are accommodated in a diverse range of buildings including original brick built industrial buildings such as Fraser and Europa House through to more modern purpose built single storey structures. It was confirmed at the Inquiry that the majority of these uses are unfettered by conditions and as a result, subject to other licensing regimes, they operate on an unrestricted basis.
35. Consequently, uses begin early in the morning and at times have run throughout the night depending upon the needs of the individual businesses. In the main this has not been an issue as, with the exception of the north western boundary of the site, there are no residential uses in close proximity to the estate that would be disturbed by such activities.
36. The appeal proposal would change this by introducing a residential element onto the estate. As a result the Council's concerns are two-fold. Namely, that the existing uses could potentially adversely affect the living conditions of future occupants of the units and secondly, if they did, this may result in restrictions being placed on the existing uses which in the long term could result in their loss which in turn would result in loss of employment at the site.
37. The appellant accepts that the noise levels at the site are higher than a traditional residential environment. However, they believe that this is not an issue for two reasons, namely the type of occupant attracted to live/work units expects and accepts a noisier environment than a traditional residential

- environment and secondly, they consider that the noise levels experienced at the site could be successfully mitigated through the use of on and off site measures.
38. The evidence I heard from witnesses would appear to confirm the appellant's position in that, with the exception of a few minor grumbles, the current occupants did not appear to be concerned about noise. Furthermore, the Council acknowledged that during the time that the use has been in operation they have not received any noise complaints from existing tenants.
39. However, both parties accept that the site is noisy. Consequently, I consider that whilst existing tenants may not be concerned by noise the same may not be true of future occupiers. As there is no mechanism to ensure that future occupiers do not complain about noise I must therefore judge whether the noise experienced at the site could be mitigated to ensure that the noise levels within the units would be acceptable.
40. The appellant has proposed two forms of mitigation. Firstly the introduction of secondary glazing and sound insulation within the units and secondly specific measures to minimise noise levels at the adjoining use.
41. I agree with both the parties that a suitably worded condition requiring noise insulation between the ground floor units and the live/work units and between the live/work units themselves would limit this element of noise disturbance to future occupants.
42. Furthermore, I accept that the secondary glazing could reduce the noise levels experienced within the proposed units to satisfactory levels. However, as the Council highlighted at the Inquiry this would only be the case while windows remained closed. As, even if trickle vents were fitted, no alternative means of ventilation would be available to tenants I consider that there is a greater than theoretical possibility that the windows would be opened particularly given the open plan nature of the units and where the windows have a southern aspect and are likely to be subject to significant gain. Whilst I accept that occupiers would be doing this in full knowledge that the external environment is noisy and that this may occur in the evening and at other times when the levels of commercial activity at the site might be lower these are also the times when occupiers would be more sensitive to noise. As a result I am not satisfied that the noise levels experienced within the units could be mitigated through the use of secondary glazing.
43. The Council has highlighted a number of specific noise issues emanating from the adjoining storage use. In particular the noise generated from the reversing sounders on the forklift trucks and from the forks hitting the ground when driving over the uneven yard surface. I observed at my site visit that the reversing sounders had been replaced with broadband non-tonal sounders and as a consequence the noise levels experienced was considerably less disturbing than traditional reversing sounders. Furthermore, the appellant has suggested that the yard could be resurfaced and this and the permanent use of tonal beepers could be secured through the use of a suitably worded condition.
44. However, the Framework⁵ states that conditions should only be imposed where they meet a number of tests including that they should be reasonable. Whilst I

⁵ Paragraph 206

accept that the adjoining unit is owned by the appellant, it is not operated by them. Although the current occupier has been happy to accommodate the changes to their working arrangements this may not be the case in the long term or with another occupier. As a result I consider it would be unreasonable to impose conditions on this use that would restrict how it operated and which could potentially result in a financial cost to the operators of that unit or restrict the way that their business operates in the long term. Furthermore, this use benefits from an unfettered planning permission and as a result there is nothing preventing current or future operators, should they need to, from changing their working practices including the hours and days of operation in the future.

45. Consequently, I agree with the Council that the existing uses at the estate could potentially adversely affect the living conditions of future occupants of the live/work units. This could result in complaints which may result in restrictions being placed on these uses which in the long term could affect their business. In turn this may result in the loss of the use and therefore the loss of employment at the wider site. Consequently, I consider that the proposal is contrary to Saved Policies ENV39, E3, H3 and TS7; policies CS04, CS09 and CS12 of the Core Strategy; policy 4.4 of the London Plan and the advice contained within the Framework that requires Councils to plan proactively to meet the needs of business and that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established⁶.

Floorspace

46. The Council raised concerns that a number of the units did not meet the minimum floorspace requirements for either the 'Technical housing standards – nationally described space standard' (2015) or the Mayor for London's minimum space standards for new dwellings⁷. As such they considered that the space provided would be substandard. I agree with the appellant that as the standards are for residential units they are not directly applicable to live/work units. However, as there are no standards for live/work units I consider that the standards provide a useful benchmark when considering what constitutes an appropriate amount of space for living accommodation. I deem this particularly important when assessing living conditions because occupiers of the units would be spending the majority of their day within the units.
47. The appellant advocates that the reason that a number of the units would fall below the standards is due to the fact that the bedroom would be able to accommodate a double bed. However, if the unit was only occupied by a single person then a lower space standard would apply which the units would meet. To achieve this, the appellant has suggested a condition limiting the number of people allowed to live within the unit. However, I consider that such a condition would be unreasonable and would therefore not meet the test for conditions set out in the Framework. As a consequence I consider that due to their size several of the units would be substandard which would be to the detriment of the living conditions of future occupiers.

⁶ Paragraph 123

⁷ Table 3.3 of the London Plan (2016)

Amenity space

48. None of the units would have any amenity space. The appellant considers that this is acceptable as the occupants of live/work units are used to a more urban form of living and would not expect amenity space to be provided. Furthermore, they consider that as these are not traditional residential units and unlikely to provide for families the development plan standards for amenity space provision should not apply.
49. I agree with the appellant that these are not traditional residential units and on the basis of the evidence that I have heard that occupiers of live/work units would not necessarily expect amenity space to be provided. However, this does not mean that it should not. Whilst this would not necessarily be a reason to dismiss the appeal on its own I consider that this is an indicator that the accommodation being proposed is substandard and would adversely affect the living conditions of future occupiers and this must be weighed in the planning balance.
50. The proposal would therefore be contrary to Saved Policies H6 and H11 which require the provision of adequate amenity space for residential developments.

Outlook

51. The majority of the flats are single aspect. Furthermore, a number of the units on the northern side of the building would face directly onto the side elevation of the adjoining storage unit. As a result I observed on site that their outlook is extremely poor. I also observed on site that a number of the mezzanines and first floor rooms only have rooflights. Although the proposal would result in the introduction of additional rooflights which would only increase the natural daylight experienced by the occupants of these rooms and would not improve the outlook.
52. I note that the appellant considers that occupiers of live/work units have lower expectations than occupiers of traditional residential properties. However, whilst I accept that a live/work unit differs from a traditional residential unit, occupiers of live/work units would also be in residence for much longer periods of time given the unit is both their place of work and their home. As a result I consider that the quality of the space provided is important to the living conditions of any occupiers of the unit.
53. This position was reinforced by the evidence I heard at the Inquiry from a number of the current occupiers who had moved units in order to improve their outlook or had specifically chosen a unit on the southern side of the building because of the aspect it provided. As a consequence I consider that it is important for the wellbeing of future occupiers that they have a good level of outlook which would not be possible for the majority of units.
54. I therefore consider that the proposal is contrary to Saved Policy H7 which advocates that residential development should have a reasonable outlook. This policy is reflected by the Framework which advocates that development should provide a good level of amenity for all existing and future occupiers of land and buildings⁸.

⁸ Paragraph 17

Unilateral Undertaking

55. A signed UU was submitted at the close of the Inquiry. The UU would deliver a financial contribution towards the provision of affordable housing off site.
56. In order to comply with the Framework and policy CS10 of the Core Strategy, a percentage of the proposed units would need to be affordable. Normally these units would need to be delivered on-site as part of the scheme. However, the Council considered that given the unique nature of the proposed units that in this instance an off-site contribution would be appropriate. The amount proposed has been the subject of a viability assessment.
57. On the basis of the evidence I have heard and read I am satisfied that the obligation within the UU is necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind. As a consequence I consider that it would meet the tests within the Community Infrastructure Levy Regulations (2010)⁹ and paragraph 204 of the Framework.

Other Matters

58. I agree with the appellant that providing the opportunity to live and work locally has a number of sustainable benefits. As a result I accept that the proposal would accord with the Framework in this regard and with a number of policies within the Core Strategy which promote reducing the need to travel (CS01) through amongst other things the provision of live/work accommodation (CS16) and home-based businesses (CS13). However, I consider that these objectives could equally be achieved through the retention of employment workspace which would likewise deliver sustainable benefits by providing opportunities for people to work locally thereby reducing the need to travel.
59. I also agree with the appellant that a key benefit of live/work units is that they can provide affordable accommodation for small businesses as the cost of paying for separate residential and commercial accommodation can sometimes be unaffordable. This was confirmed by a number of the current occupiers at the Inquiry.
60. The appellant stated at the Inquiry that due to set overheads it would not be possible, were the site to be purely commercial floorspace, to reduce rent levels at Fraser House so that space could be offered at a rate where it would be affordable for users to maintain separate residential and commercial accommodation. However, no evidence was provided to support this claim and as a consequence I can only afford it very limited weight.
61. The appellant advocated that due to its age, obsolete layout and lack of facilities such as a lift they considered that the upper floors of the building were not suitable or attractive for conventional B1 uses. To support this, the appellant referred to the fact that the last use of the building was as a gym and that prior to this the building had been vacant for a number of years. However, since the gym use ceased the upper floors would appear to have been used as live/work units. It is unclear from the evidence before me as to whether this space has been marketed as commercial space and whilst there are several references within the evidence to the site having been marketed no

⁹ Regulation 122

evidence of what this marketing was has been provided. As a result I am not satisfied that the appellant has successfully demonstrated that the upper floors are not suitable for conventional B1 purposes. Furthermore, as highlighted by the Council at the Inquiry the layout and lack of facilities could easily be resolved with limited investment.

62. The appellant has referred to classes P and PA of Schedule 2, Part 1 of the Town and Country Planning General (Permitted Development)(England) Order 2015 (as amended) as an indicator that the Government encourages the conversion of commercial buildings to residential without requiring any particular standard for outlook or amenity space. However, this appeal is not an application for prior approval and as such proposals should, unless material considerations indicate otherwise, accord with the requirements of the development plan. Both the Core Strategy and the Saved Policies contain policies which require a good level of amenity and as a result I consider that I can afford this argument very limited weight.

Planning balance

63. I accept that the scheme would deliver several positive social and economic benefits. The proposal would provide a form of lower cost accommodation which is needed by small businesses and which was reported that it was difficult to find elsewhere in the borough. By delivering the ability to live and work in the same place the proposal would minimise the need to travel and accords with one of the key objectives of the Framework. The proposal would deliver employment in accordance with the aims of the Framework. The scheme would also provide a financial contribution to the delivery of affordable housing offsite in an area where there is an acknowledged need.
64. However, for the reasons outlined above I consider that the proposed live/work units would through their location in close proximity to established noisy uses; limited size; lack of amenity space and poor outlook would provide substandard accommodation that would adversely affect the living conditions of future occupiers. Furthermore, I consider that the introduction of a residential element within an established industrial estate has the potential to adversely affect existing established uses at the site which could in the long term result in the loss of these employment uses. As a consequence I consider that the benefits and material considerations I have outlined above would not outweigh the identified conflict with the development plan and the Framework. As a result I consider that the proposed live/work units are contrary to the policies contained within the development plan as a whole and the guidance provided by the Framework.

Conditions

65. As outlined at the beginning of this decision letter I agree with the Council that the ground floor commercial units would be acceptable and as a consequence I now need to consider whether it would be necessary to impose any conditions. The Council and the appellant produced an agreed list of suggested conditions which covered both the commercial and live/work elements. As I consider that the live/work unit element should be dismissed I am proposing to consider only those conditions that are relevant to the ground floor commercial use.
66. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, the advice contained within the Planning Practice

Guidance (the PPG) and the discussions at the Inquiry. Where necessary I have adjusted their wording in the interests of clarity or enforceability.

67. As the units have already been created and no further alterations are proposed a condition setting out the time limits for implementation is not necessary. However, in the interests of clarity and enforceability I consider that a condition listing the plans which are approved is necessary. Furthermore, given the concerns regarding the introduction of a residential element I consider that the exceptional circumstances required by the PPG for the removal of Permitted Development rights exists. I have therefore attached a condition defining the approved use and removing the rights to change that use without first applying for planning permission.
68. To ensure highway safety and the free flow of traffic a condition to ensure the availability of on-site parking for future occupiers of the units is considered necessary. In order to encourage the use of sustainable modes of transport a condition regarding cycle storage provision is also considered necessary.
69. The Council have suggested the imposition of a condition controlling the hours of working and deliveries. However, the reason for the suggestion was to protect the living conditions of the future occupiers of the upper floors. As I am not proposing to allow the live/work units and the rest of the uses within the industrial estate are unfettered I do not consider such a condition either reasonable or necessary.
70. As there would be no time condition I consider that a condition setting out a timescale for the provision of the refuse store insofar as it is needed for the ground floor units and its permanent retention thereafter is necessary.

Conclusion

71. For the reasons set out above, I conclude that the appeal should be dismissed in relation to the 19 No live/work (Sui Generis) units on the upper floors and alterations to internal layouts on upper floors and insertion of rooflights to front and rear roof slopes. However, in relation to the 3 No existing Class B1 units on the ground floor and the minor alterations to accommodate a new communal refuse store adjacent to the main entrance on the ground floor, I conclude, subject to the conditions set out in the attached schedule that the appeal should be allowed.

Jo Dowling

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alex Greaves, of Counsel

He called

Mr Richard Turek Senior Planning Officer, London Borough of Bexley

Mr Roger Angerson Environmental Health Officer, London Borough of Bexley

FOR THE APPELLANT

Mr Eion Caws, of Counsel

He called

Mr Derek Horne Principal, Derek Horne and Associates Ltd

Mr Ed Clarke Technical Director, Clarke Saunders Associates

INTERESTED PERSONS

Mr Petrit Ceka Caretaker for Europa Industrial Estate

Mr Roger Drostle Tenant of Fraser House

Mr Kyle Langley Tenant of Fraser House

Ms Tiffany Little Tenant of Fraser House

Mr Dorian Nedzewicz Tenant of Fraser House

Richborough Estates

DOCUMENTS SUBMITTED AT THE INQUIRY

- Document 1** Revised assessment of units to those in appendix 14 taking into account No of storeys and occupants
- Document 2** Draft Unilateral Undertaking
- Document 3** Opening submissions on behalf of the London Borough of Bexley
- Document 4** Extract from BS 8233:1999 Guidance on sound reduction and noise reduction for buildings
- Document 5** Copy of plan for caretakers flat (LPA reference: 93/0239F)
- Document 6** Copy of policy DM39 'Warehouse Living' of the London Borough of Haringey Development Management Plan Document (2016)
- Document 7** Copy of the draft statement provided to Mr Gary Drostle
- Document 8** Email dated 1 December 2017 from Mr Ed Clarke to Mr Derek Horne confirming the dates that he was appointed to undertake the noise survey
- Document 9** Further revised assessment of units to those in appendix 14 dated 1 December 2017
- Document 10** Agreed schedule of conditions submitted by email 4 December 2017
- Document 11** Signed Statement of Common Ground
- Document 12** Signed Unilateral Undertaking
- Document 13** Closing submissions on behalf of the London Borough of Bexley
- Document 14** Appellants notes for closing

DOCUMENTS SUBMITTED AFTER THE INQUIRY CLOSED

- Document 15** List of amended agreed conditions
- Document 16** Copy of plan 20170821-PL01 Existing car park arrangements
- Document 17** Email from Jason Bryce dated 14 December 2017
- Document 18** Email from Richard Turek on behalf of the London Borough of Bexley

CONDITIONS SCHEDULE

1. The plans hereby approved are: 0085-DR-0010 P01, 0085-DR-0011 P01, 0085-DR-0100 P01, 0085-DR-0200 P01, 20170821-P01.
2. The ground floor units hereby approved shall only be used for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), and shall be used for no other purpose, including those permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (or any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification).
3. The existing parking and servicing arrangements as set out on drawing No 20170821-P01 insofar as they relate to the ground floor units shall be permanently retained for such use by all the tenants and owners of these units at all times.
4. Details of the bicycle parking to be provided for the Class B1 units, in accordance with the London Plan minimum provision requirements, shall be submitted to the local planning authority for approval within three months of the date of this decision letter. The approved bicycle storage facilities shall be installed within three months of being approved and shall thereafter be permanently retained.
5. Within six months of the date of this decision letter the refuse store shown on plan 0085-DR-0200 P01 insofar as it is needed for the ground floor units hereby approved shall be provided on site and thereafter permanently retained.

Richborough Estates