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## Appeal Decision

Site visit made on 10 February 2016

**by Claire Victory BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 21 April 2016**

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**Appeal Ref: APP/G5180/W/15/3134762**  
**25 Church Road, Crystal Palace, London SE19 2TE**

- 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 KICC The Open Door against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/14/04557/FULL2, dated 19 November 2015, was refused by notice dated 18 March 2015.
  - The development proposed is the change of use from Class D1 (Bingo Hall) to a mixed use comprising Class D1 use and Class D2 use.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in the appeal are the effect of the development on the vitality of the town centre, and on highway safety in the vicinity of the site.

### Reasons

#### *Vitality of town centre*

3. The appeal property is located within Crystal Palace town centre. It is a two and three storey building that was constructed as a cinema and was last in use as a Bingo Hall in approximately 2009. The property has been recently refurbished by the appellant and comprises a single, two tiered auditorium, a foyer area, and smaller meeting rooms on the first floor and at basement level, and offices, including that formerly used by the cinema projectionist. There is vehicular access and a service/turning area at the rear accessed from a relatively narrow alleyway off Milestone Road. The property lies within a terraced parade of commercial properties that forms part of the Triangle, where commercial and cultural uses are focussed around three main roads; Church Road, Westow Hill and Westow Street.
4. The London Plan<sup>1</sup> highlights that a growing and increasingly diverse population will create demand for new social infrastructure and the need to ensure a network of vibrant and exciting town centres with a range of shops and other facilities. Further to the above, Policy 2.15 of the London Plan 2015 requires that development proposals support and enhance the competitiveness, quality and diversity of the town centre retail, leisure, employment, arts and cultural,

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<sup>1</sup> Spatial strategy, paragraph 1.40 – London Plan 2015

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- other consumer services and public services; sustain and enhance the vitality and viability of the centre, and be in scale with it.
5. The proposal would involve the use of the building as a mixed use within Class D1 (non-residential institutions) and Class D2 (assembly and leisure). The hours of operation would be 08:00 to 23:00 every day including Bank holidays, albeit the appellant submits the main hours of worship for the proposed Class D1 element would be during Tuesday evenings and on Sundays.
  6. The local area is well provided for in terms of places of worship, with about 10 churches in the SE19 postcode area, but there are no other Class D2 uses in the vicinity of the Triangle. The appellant has provided evidence<sup>2</sup> to indicate that there is no demand for a cinema of this size with a single auditorium. Notwithstanding this, there is equally no evidence that the property has been marketed for this purpose by the appellant. Indeed, a cinema company sought to purchase the property at the time it was acquired by the appellant, and it has expressed a continuing interest in operating the property as a cinema. There is also local support for a community cinema or other entertainment use, and there have been other expressions of interest from companies interested in operating a cinema on the premises.
  7. A café operated within the foyer for some months but is no longer open. I note that some public events have been held within the auditorium including live opera and the screening of films, and I was shown the equipment installed in the auditorium to facilitate this. The appellant also has provided information on events held previously at the venue, but many of these appear to have a strong element of worship. In addition a limited amount of performances have been organised by a third party. It appears that the approval of the appellant was required for each performance, and the cost of hiring the venue was relatively high. Evidence from local residents also indicated that the type of events, including films have been relatively narrow in scope, for example only films rated U. Consequently the cost of hiring the venue and control of activities by the appellant would be likely to limit the variety of films or types of performances that may be shown on the premises, and narrow the range of activities that might be offered to the local community.
  8. The appeal proposal does not specify any part of the site that would be for Class D2 use. The appellant contends that the auditorium and meeting rooms would be available for use by local groups outside the main hours of worship, and that various other programmes provided by the church would be open to any other members of the community who wish to attend. However, in terms of activities independent of the church, the application and supporting information do not indicate any specific times each week when the building would be available, or groups that would use the facility. As a result it is unclear whether such open access to other groups would be available and it would be difficult to ensure that the proposed use would in practice be a mixed D1/D2 use. Furthermore, it is not apparent that any condition could be worded effectively to ensure a Class D2 use of either a part of the building or during particular times of the week.
  9. I recognise that the needs of all in society should be addressed, such as faith groups as set out in paragraph 3.5 of the London Plan. Moreover, both cultural buildings and places of worship are referred to as community facilities in the

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<sup>2</sup> Former Rialto Cinema - Evidence relating to the use of the building (Colliers International)(September 2015)

National Planning Policy Framework. Policies 3.16 and 7.1 of the London Plan are concerned with the protection and enhancement of social infrastructure and lifetime neighbourhoods. Given that the proposal would be a community use there would be no conflict with their aims.

10. However, 25 Church Road is the only large building of its type in the town centre. The Framework contains policies that seek to ensure their vitality. Whilst the list of main town centre uses in the Glossary includes entertainment it does not include places of worship. Neither is a Class D1 use a public service as referred to in Policy 2.15 of the London Plan. Accordingly, greater importance should be attached to the retention of the premises in its current use. From the evidence provided I am not persuaded that the mixed use proposed would offer sufficient and meaningful opportunities for Class D2 activities or that there is no potential for them to take place there in the future. The proposed use of the building would have a significant impact on the range of facilities that would be available. The lawful use of the building is so important to the overall function of the centre that the loss of the opportunity to reinstate a use exclusively within Class D2 should not be lost at this stage. Overall, the proposal would be to the detriment of the vitality of the town centre.
11. Furthermore, the property has been registered by the Council as an Asset of Community Value. Whilst this does not require the appellant to sell the property, it means that the local community would have an option to purchase the property if offered for sale. Given the strength of local support for the retention of the Class D2 use this is a material consideration in the appeal.
12. I have also taken into account the considerable investment made by the appellant in refurbishing the building, but this would not overcome the harm that I have identified.
13. For these reasons I conclude that the proposal would harm the vitality of the town centre, and it would be contrary to London Plan Policy 2.15.

#### *Highway Safety*

14. The Council are concerned with the impact of the proposed use on the demand for car parking in the vicinity, particularly the Class D1 element of the appeal proposal. Church Street has double yellow lines adjacent to the appeal site, and there is a bus stop close to the site. Loading is not permitted directly outside the venue. To the rear of the appeal site there is a small area that could be used for parking cars. There is a small car park on St Aubyns Road, a multi-storey car park in Sainsburys on Westow Street, and a limited number of pay and display bays in the area. The Bus Terminal is a short walk away, close to Crystal Palace Park, and Crystal Palace rail station is approximately 10 minutes walk from the site.
15. The application form states that about 250 worshippers would attend events. The seating capacity of the venue is not stated but I saw that fixed seating in the upper tier and capacity for seating in the main hall would be likely to be in excess of that number. The appellant has indicated that a proportion of the worshippers would come from the existing church in Sutton, about 8 miles away, although the transport study and the consultation responses, suggest the church would draw a wide catchment from North and East London and the wider South East area including parts of Kent and Essex. I have also had

- regard to KICC's other venue in Walthamstow, which attracts significant numbers from a wide geographical area.
16. The appellant contends that many of the worshippers would use minibuses organised by KICC. Others may arrive by bus or train, although the route up a steep hill from the rail station may deter some visitors. I am also mindful that people that would travel to the property in association with the existing use would also use a variety of transport modes, some of which would be likely to travel by car. Nevertheless, based on the evidence before me, the sub-regional catchment of KICC would generate a significant level of traffic, and it is likely that a substantial proportion would arrive by car, and this would be concentrated at certain times at the start and end of each service, with limited public car parking capacity in the vicinity of the appeal site, and no car parking on Church Road.
  17. I have had regard to the proposed Travel Plan and Event Management Strategy that could be secured by condition. This proposes that minibuses would be used to pick up and drop off visitors on Milestone Road or at the rear of the site using the service road. However, this is also a servicing area for the appeal site and is adjacent to the fire exit, and occupiers of adjacent properties have a right of access along the shared track to the rear of Church Road. Whilst Milestone Road has no traffic restrictions it is relatively narrow and thus large numbers of minibuses alighting in this location would be likely to cause an obstruction to the highway.
  18. Local residents have reported incidences of cars blocking the access, the entrance to it and other local roads. I accept that inconsiderate parking in nearby streets by visitors to the premises cannot necessarily be controlled personally by the appellant, and although the application refers to the opportunity to introduce legally binding management measures no planning obligation has been submitted with the appeal. Without such measures in place I cannot be certain that the proposal would not cause hazards or whether they could be adequately minimised.
  19. The Council and local residents have pointed out the narrow width of footway on Church Road, due to the bus stop and shelter and other street furniture, but I consider that people entering and leaving the premises would move along the pavement and disperse relatively quickly. As such there would be no adverse effect on pedestrian safety.
  20. For these reasons I conclude that although there would be no adverse effect on pedestrian safety, the proposal would cause harm to highway safety in the vicinity of the site. Accordingly it would be contrary to Policy T18 of the Bromley Unitary Development Plan (LP)(2006) which seeks to ensure that road safety is not affected by new development, and LP Policy T3 insofar as it relates to schemes where lesser parking provision will lead to unsafe highway conditions.

### **Conclusion**

21. For the above reasons I conclude that the appeal should be dismissed.

*Claire Victory*

INSPECTOR