

## Appeal Decision

Site visit made on 23 August 2019

**by John D Allan BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> September 2019**

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**Appeal Ref: APP/G5180/D/19/3230199**

**27 Mada Road, Orpington, BR6 8HQ**

- 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 Andrew Cooper against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/19/00867/FULL6, dated 19 February 2018, was refused by notice dated 5 April 2019.
  - The development proposed is described as '*Part one/two storey extension to front & rear. Roof alteration with dormer to front & side*'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The decision notice and the appeal form both record the date of the application as 20 February 2019. However, the application form is dated 19 February 2018. I have recorded the date of the application as being that given on the application form but am satisfied that the application before me is that which was originally submitted to the local planning authority.

### Main Issue

3. The main issue is the effect of the proposal upon an existing flood defence.

### Reasons

4. The appeal property is a detached property with a culverted watercourse running through its curtilage and to the side of the dwelling. The route of the culvert is shown on the application drawings and follows a diagonal path. The plans show that the front corner of the appeal proposal would be within 1.7m of the culvert at this point and nearer to the position of the culvert than any part of the existing dwelling.
5. The Environment Agency has stated that the proposed development would restrict essential maintenance and emergency access to the culvert. They state that the permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and/or improvement works and that further

surcharge loading this close to the culvert would adversely impact its function and may accelerate its deterioration over the course of its remaining lifetime. As a consequence they point to conflict with Policy 5.12 *Flood risk management* of The London Plan 2016, with particular reference to part D which states that development adjacent to flood defences will be required to protect the integrity of existing flood defences and wherever possible should be set back from the banks of watercourses and those defences to allow their management, maintenance and upgrading to be undertaken in a sustainable and cost effective way. In addition, they identify conflict with Policy 115 *Reducing Flood Risk* of the Bromley Local Plan 2019 which, amongst other things, in order to reduce the impact of new development, states that the Council will work with the Environment Agency, landowners and developers, to manage and reduce flood risk from all sources of flooding.

6. The appellant has directed me to extensions to the property that were constructed in 2014 and which brought the original dwelling to within 3m of the culvert. Consequently, an agreement to build within 3m of a public sewer was required from Thames Water. The works were also overseen by building control to avoid any additional load to the culvert.
7. The appellant draws comparison between the last permitted scheme and the current proposal, with the intent to follow the same procedures to the same end. Nevertheless, it is apparent from the plans that part of the current proposal will bring the building closer to the culvert than the existing dwelling. The Thames Water agreement was specific to the development that was proposed in 2014. There is no evidence before me to confirm that any such agreement would be forthcoming in relation to the appeal proposal, with the comments from the Environment Agency suggesting otherwise.
8. The National Planning Policy Framework reminds us that planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The current adopted versions of The London Plan and the Bromley Local Plan both post-date the 2014 decision and there would be conflict in this case with relevant policies from both, as identified above. In addition, the circumstances in 2014 do not directly mimic those currently proposed. In the absence of any substantive evidence that the proposal would not impact upon the integrity of the culvert, or its maintenance, I am unable to conclude that there would be no increased flood risk.
9. Accordingly, and having regard to all other matters raised, the appeal is dismissed.

*John D Allan*

INSPECTOR