



Appeal Decision

Site visit made on 16 July 2019

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/Q3820/W/19/3226797

174 Three Bridges Road, Three Bridges, Crawley RH10 1HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr J Lipschitz against the decision of Crawley Borough Council.
 - The application Ref CR/2018/0902/PA3, dated 10 December 2018, was refused by notice dated 14 February 2019.
 - The development proposed is Prior Approval for change of use from office (B1) to residential (C3) for 2x residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the appeal form as this is more concise than that on the application form.
3. Class O of the General Permitted Development Order (GPDO) relates to "*Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule*". Whilst the two residential units proposed clearly fall within the curtilage of the declared appeal site, 174 Three Bridge Road, access to both units would only be gained from land outside the curtilage over land at the rear of and within the curtilage of 170-172 Three Bridges Road. The ground floor entrance door to both proposed units would be in the flank wall to 174 Three Bridges Road on the boundary with 170-172 Three Bridges Road. As the plans indicate the adjacent site to be 'blue' land, also within the appellant's ownership, it may be possible to redefine the curtilage of 174 Three Bridges Road to address this issue as part of a future proposal. However, the access arrangements within the current proposal arguably undermine the appellant's claim that the proposal is within curtilage permitted development. I shall nonetheless consider other issues raised by the appeal as it is to be dismissed on other grounds.
4. The Council considers that the proposal satisfies the criteria listed under O.1(a)-(g) of the GPDO and I have no reason to disagree with this. Thereafter a developer must apply for a determination as to whether prior approval is required in relation to conditions at O.2 of the GPDO. The Council have refused the proposal in respect of one issue, flooding risks at the site.

Main Issue

5. The main issue therefore is whether the proposal would be acceptable in relation to flood risk.

Reasons

6. The appeal relates to a two storey building adjacent to an access leading to a parking area serving Kingsland Court. The building is currently vacant but has previously been used as an estate agents office on the front part of the ground floor, with the rear part of the ground floor and the first floor used as offices within Class B1(a). The proposal would create a one bedroom unit on the ground floor within the Class B1(a) office area and a two bedroom unit on the first floor involving internal alterations and changes to access arrangements.
7. The site lies within Flood Zone 3b with the Gatwick Stream located to the east of the site. The Environment Agency (EA) have objected to the proposal as residential development falls within a flood risk vulnerability category that is inappropriate to flood zone 3b (functional floodplain with a high probability of flooding). Their advice is clear that the proposal should not be permitted.
8. The proposal is accompanied by a Flood Risk Assessment (FRA) which includes several flood mitigation measures: demountable flood barriers to be installed at ground floor entrances, a dry refuge to be created on the first floor for occupiers of both flats, flood resilient construction measures (where possible) and for residents to subscribe to the EA Flood Warnings Direct service.
9. As the one bedroom unit would be wholly on the ground floor, residents here would be vulnerable to flood risk particularly when sleeping and if measures such as the demountable barriers had not been installed or warnings received. Access to the upper unit would only be via the ground floor entrance and so its occupiers would also be vulnerable to flood risk. The FRA measures may prove inadequate in the event of a fluvial flood.
10. The appellant has drawn my attention to Paragraphs in the National Planning Policy Framework that promote an effective use of land in meeting the need for homes and other uses. Whilst I acknowledge the pressing need for additional homes, this does not provide justification for the location of this vulnerable use within Flood Zone 3b. The appellant has also referred to other local changes of use that are considered to set a precedent for the proposal. The Council has confirmed that none of the sites referred to are within Flood Zone 3b. They are not therefore directly comparable.
11. There is no evidence before me that the proposal would not be satisfactory in relation to transport and highway impacts or contamination risks, the other conditions set out at O.2 of the GPDO.

Conclusion

12. For the reasons given, I consider that the proposal would create dwellings that would be at risk of flooding, contrary to EA advice without justification or adequate mitigation. I therefore conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR