



Appeal Decision

Site visit made on 11 January 2023

by D R McCreery MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2023

Appeal Ref: APP/G5180/W/22/3302729

3 High Street, Chislehurst BR7 5AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr A Rutherford (Kalmax Properties Ltd) against the London Borough of Bromley.
 - The application Ref 22/00071/FULL1, is dated 4 January 2022.
 - The development proposed is first floor rear extension to north side of building to provide additional office accommodation, removal of phone mast, elevational alterations and two additional car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for first floor rear extension to north side of building to provide additional office accommodation, removal of phone mast, elevational alterations and two additional car parking spaces at 3 High Street, Chislehurst, BR7 5AB in accordance with the terms of the application, Ref 22/00071/FULL1, dated 4 January 2022, and the plans submitted with it and subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr A Rutherford (Kalmax Properties Ltd) against the London Borough of Bromley. This application is the subject of a separate Decision.

Procedural Matters

3. It is common ground between the Council and the Appellant that the proposal is for identical works to planning permission issued by the Council on 26 February 2019 under reference 18/05494/FULL1 (2019 Permission) for first floor rear extension to north side of building to provide additional office accommodation, removal of phone mast, elevational alterations and two additional car parking spaces. The present application for planning permission was made prior to the expiry of the 3 year period in the 2019 Permission. There is nothing in the evidence to suggest that the 2019 Permission has commenced. I have decided the appeal on this basis.
4. The Council have resolved not to contest the appeal on the grounds that they consider the impacts to be acceptable. Carefully considering the evidence, including the Council's assessment of the planning merits of the proposal and comments from other parties, I share the Council's view that the proposal is acceptable when regard is paid to its planning impacts. This includes acceptability in relation to the need to conserve and enhance the character and

appearance of the Chislehurst Conservation Area and accordance with the relevant statutory duty¹.

5. As a consequence of the above, there are no main issues in this appeal. The focus instead is on addressing other matters, none of which in my view should be elevated to main issues.
6. Planning law requires that applications for planning permission be determined in accordance with the development plan for the area unless material considerations indicate otherwise. In this case, the development plan comprises the Bromley Local Plan (Local Plan) and the London Plan. The 2019 Permission predated the latest London Plan. Considering the Council's submission on policy equivalence between the latest and previous London Plans, I am satisfied that there has been no substantive change in policy of relevance to the proposal.
7. The National Planning Policy Framework (the Framework) is a material consideration.

Other Matters

8. The comments made in response to the planning application have been taken into account. As explained above, I am not of the view that any issue raised should be elevated to a main issue in this appeal.
9. In relation to effects on living conditions of occupiers of the Hollington Court building closest to the site, paying particular regard to loss of sun light and overshadowing. There is already a gap between the site and Hollington Court created by a parking area. The proposal would not result in built development being closer to Hollington Court. As such, the separation distances between the properties would remain as existing.
10. Any restriction on morning sun as existing, particularly to the ground floor of Hollington Court, would arise as a consequence of the positioning and height of the main building of 3 High Street. The gap between buildings and the height of the proposed development on the lower part of number 3 would be such that it would not result in a material deterioration in sunlight, when regard is paid to the existing conditions. The separation distances between the buildings are also such that no material increase in overshadowing would result.
11. The proposal would therefore accord with Policy 37 of the Local Plan in relation to protecting the amenities of existing residents.
12. Turning to parking and traffic effects. Two additional parking spaces would serve the proposal. Paying regard to the comments from the Council's highways specialists and other evidence this level of provision is appropriate to serve the needs of a development of this scale, paying regard also to the location and public transport accessibility. The intensity of activity associated with the proposal is at a scale that is likely to be accommodated without adverse effects resulting for users of the side access road.
13. The proposal would therefore accord with Policy 30 and 31 of the Local Plan in relation to parking arrangements and congestion. This is subject to conditions governing the use and size of the associated parking spaces.

¹ S72 Planning (Listed Building and Conservation Areas) Act 1990

Conditions

14. I will consider conditions by reference to the numbering in the attached schedule. The conditions replicate those imposed on the 2019 Permission unless stated otherwise. Nevertheless, I have considered their appropriateness in light of the tests at paragraph 56 of the Framework.
15. (2) is necessary in the interests of certainty. I have included the plan numbers for the avoidance of doubt.
16. (3) is necessary in the interests of ensuring a satisfactory standard of external appearance. (4) and (6) are necessary to ensure that the use remains as approved and appropriate in terms of hours of operation, as alternatives may give rise to different planning impacts requiring further consideration. (5) and (7) are necessary to ensure that the proposed parking spaces are adequate for their intended use and are available for the required purpose.

Conclusion

17. For the reasons given, and considering all the other points made, I conclude that the appeal should be allowed.

D R McCreery

INSPECTOR

Schedule of conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission (60-01A, 60-02A, 60-03,60-04,60-05,60-06) unless previously agreed in writing by the Local Planning Authority.
3. The materials to be used for the external surfaces of the building shall be as set out in the planning application forms and / or drawings unless otherwise agreed in writing by the Local Planning Authority.
4. The floorspace shown on the approved plan as Class B1 office shall only be used as Class B1 (Offices) and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). There shall be no change of use whether allowed by the Town and Country Planning (Use Classes) Order 1987, the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order amending, revoking and re-enacting these Orders.
5. Parking bays shall measure 2.4m x 4.8m and there shall be a clear space of 6m in front of each space (or 7.5m if garages are provided) to allow for manoeuvring and these spaces shall be permanently retained as such thereafter.
6. The use shall not operate on any Sunday or Bank Holiday, Christmas Day or Good Friday nor before 8am or after 7pm on Mondays and Fridays or before 9am or after 1pm on Saturdays.
7. The car parking area hereby permitted shall be used only by customers and employees of the premises at the application site and for servicing of the said premises hereby permitted.