



Appeal Decision

Site visit made on 20 August 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/G5180/W/23/3334768

85 Royston Road, Penge, Bromley, London SE20 7QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Ms Wong against the decision of the Council of the London Borough of Bromley.
- The application Ref 21/01705/RECON was approved on 25 August 2023 and planning permission was granted subject to conditions.
- The development permitted is Minor material amendment under Section 73 of the Town and Country Planning Act 1990 to allow variation of condition 2 of planning application ref: 21/01705/FULL1 (granted on the 8th March 2022 for Demolition of two storey annexe and single storey outbuilding and construction of a three storey building (consisting of six flats of 2 no 2 bedroom flats and 4 no 1 bedroom 1 person flats). Installation of four dormer windows and four rooflights. New front garden to Flat 1, new rear gardens for flats 2 & 3 and new communal garden for flats 4, 5 & 6. Six car parking spaces to allow the following revisions to the approved plans; 2 x 1 bedroom flats, 4 x studio flats, amends to stairwell, enlargement of front and rear dormer windows to single larger dormer window at roof level, six rooflights, increase to ridge height of building, new communal garden area for flats 3, 4, 5, & 6. Reconfiguration of car parking spaces, fenestration and external alterations, changes to refuse provision.
- The condition in dispute is No 3 which states that: Prior to commencement of development, the applicant must demonstrate that the proposal will not reduce floodplain storage or restrict the flow path from 85 Royston Road to Royston Road. The applicant should consider the increase in flow owing to climate change for the lifetime of the residential development. The proposed mitigation must be submitted to, and approved in writing by, the Local Planning Authority, in consultation with the Environment Agency. The works shall be implemented as approved.
- The reason given for the condition is: Floodplain compensation must maintain the characteristics of the floodplain before the current development. We require the excavated volume to empty under gravity action so that the storage is not lost between flood events. This condition is in line with the National Planning Policy Framework (NPPF) (Paragraph 159). The applicant has submitted a scheme for floodplain storage, as demonstrated in the submitted Flood Risk Assessment (FRA) by Flume Consulting Engineers (dated September 2021, reference 1109, Version 1) (pages 14-15 and Appendix C). The submitted FRA states that: "the proposed flood compensation also allows flood waters to naturally inundate the development under gravity action; maintain the characteristics of the floodplain in its current state" (page 14). Whilst we approve of the floodplain compensation scheme, the submitted drawings do not clearly indicate that the storage would be able to freely drain under gravity action. We require further drawings which would demonstrate that the floodplain storage would naturally empty under gravity action.

Decision

1. The appeal is allowed and the planning permission Ref 21/01705/RECON (for the Minor material amendment under Section 73 of the Town and Country Planning Act 1990 to allow variation of condition 2 of planning application ref: 21/01705/FULL1 (granted on the 8th March 2022 for Demolition of two storey annexe and single storey outbuilding and construction of a three storey building (consisting of six flats of 2 no 2 bedroom flats and 4 no 1 bedroom 1 person flats). Installation of four dormer windows and four rooflights. New front garden to Flat 1, New Rear Gardens for flats 2 & 3 and new communal garden for flats 4, 5 & 6. Six car parking spaces to allow the following revisions to the approved plans; 2 x 1 bedroom flats, 4 x studio flats, amends to stairwell, enlargement of front and rear dormer windows to single larger dormer window at roof level, six rooflights, increase to ridge height of building, new communal garden area for flats 3, 4, 5, & 6. Reconfiguration of car parking spaces, fenestration and external alterations, changes to refuse provision) is varied by deleting condition 3.

Preliminary Matters

2. Planning permission was originally granted for the demolition of the two storey annexe and single storey outbuilding and construction of a three storey building of flats¹. A subsequent application gained approval for amendments to the approved scheme to which this appeal relates². Both permissions include condition 3 as set out in the banner heading above relating to floodplain storage. The condition was imposed to ensure that floodplain compensation must maintain the characteristics of the floodplain before the current development. The full reason for the condition is outlined in the banner heading above though a new National Planning Policy Framework was published in December 2023 and paragraph 165 of the new document now applies.
3. It should be noted that a draft National Planning Policy Framework was published in July 2024. The proposed changes would not materially affect the main issue in this case, so the parties were not invited to make further comments. As the draft document is currently subject to consultation, it carries very little weight.
4. Subsequent to submitting the appeal, the appellant applied to the Council³ to discharge condition 3 on the amended scheme which is the subject of this appeal. This application was accompanied by hydraulic modelling for the River Ravensbourne of the 1 in 100 year plus 17% climate change scenario which reflects current guidance on climate change allowances. Under this scenario, the site is no longer affected by such flood risk and thus the Environment Agency advised the Council that floodplain compensation is not currently required at this site. Consequently, the Council approved the discharge of condition 3 in March 2024.
5. Having regard to this change in circumstances since the appeal was submitted, the Council no longer considers that condition 3 would satisfy the tests for planning conditions set out in the National Planning Policy Framework. As such,

¹ Application ref 21/01705/FULL1

² Application ref 21/01705/RECON 'the amended scheme'

³ Application ref 21/01705/CONDIT

it no longer wishes to contest the appeal and is content that this condition be removed.

6. In light of all that I have seen and read, I have no reason to dispute the conclusion that the Council has reached and concur with the parties that condition 3 is not necessary or reasonable. I have therefore allowed the appeal.

Conclusion

7. For the reasons given above, I conclude that the appeal should be allowed, and I shall vary the planning permission by deleting condition 3.

A Wright

INSPECTOR