



Appeal Decision

Site visit made on 22 October 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 NOVEMBER 2024

Appeal Ref: APP/G5180/W/24/3341929

309 Beckenham Road, Beckenham, Bromley BR3 4RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Concrete Investments Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref is 23/04616/FULL1.
 - The development proposed is the extension of existing office building and conversion to form a 1-bedroom studio flat with associated amenity area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an existing detached building which is located to the rear of 309 Beckenham Road. The structure was built without planning permission however the Council subsequently issued a planning permission¹ for an office building. There is some disagreement between the parties whether the building that presently exists on the site is a lawful implementation of this planning permission however I will return to this matter in discussion below.

Main Issues

3. The main issues are:
 - 1) whether the proposed development would provide satisfactory living conditions for the future occupants,
 - 2) whether the proposed development would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding, and
 - 3) whether, in the event that harm is identified in relation to the above, if there are any other considerations which warrant the grant of planning permission.

Reasons

Living conditions

4. The proposed dwelling would feature full length floor-to-ceiling windows to two elevations. These would have a very limited outlook and, to all intents and purposes, offer vantage over little more than timber fences. There would be no

¹ 23/02895/FULL1

meaningful views of any public spaces or gardens with the exception of the very small outdoor amenity area.

5. The side facing windows would have aspect towards a footpath. These windows form the primary windows to the bedroom and kitchen. Pedestrians accessing other flats would traverse this footpath and be able to see directly into the bedroom of the proposed dwelling giving the future occupants little to no privacy. I do not accept that this arrangement is similar to the flats at 309-311 Beckenham Road as the ground floor flat near to the proposed dwelling has its principal aspects to other directions and only one high-level secondary window addressing this footpath. Other flats in that development also have other aspects and are at first floor level or above.
6. For these reasons I conclude that the future occupants of the proposed dwelling would have substandard living conditions due to its poor quality of design and layout giving a lack of privacy and negligible or highly restricted outlook. The proposal therefore fails to comply with policies 4 and 37 of the Bromley Local Plan 2019 (BLP), policy D6 of the London Plan 2021 (LonP) and the National Planning Policy Framework (the Framework).
7. The existing building would be extended to 40 square metres and as such would comply with the floor area requirements of the Nationally Described Space Standard (NDSS) and policy D6 of the LonP. This however is a neutral consideration and, as with other elements that comply with certain policies of the development plan, weighs neither for, nor against, the proposal.

Flood risk

8. Paragraph 165 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The Planning Practice Guidance (PPG) clarifies that areas at risk of flooding principally means land within Flood Zones 2 and 3. The appeal site is shown on the Environment Agency (EA) flood map for planning as being within Flood Zones 2 and 3, an area with a high risk of flooding from Pool River.
9. Policy 115 of the BLP requires that, in flood risk areas, the sequential test and exception test as set out in the Framework should be applied. Paragraph 174 of the Framework states that applications for some minor development and changes of use should not be subject to the sequential or exception tests.
10. Whilst some forms of development are exempted from a sequential or exception test², none of these exemptions apply here. The proposed dwelling, to comply with the NDSS and policy D6 of the LonP standards, could only be formed through the construction of an extension to the existing building and as such it does not fall within the 'minor development' or 'change of use' exception. The proposed dwelling is not householder development or a small non-residential extension. This is because operational development is required to implement the change of use to a dwelling. Specifically, it is not a straightforward change of use, as has been suggested by the appellant. The Flood Risk Assessment (FRA) is deficient in that a sequential test has not been carried out, and accordingly it has not been demonstrated that there are no reasonably available alternative sites where the proposal could be developed.

² Framework paragraph 174 & footnote 60 and PPG Paragraph: 051 Reference ID: 7-051-20220825

11. Accordingly, whether the existing building is authorised or not is an academic distinction and, in the context of this S78 appeal, it is not my place to pass comment on this. In either circumstance, the development; were that to be the regularisation of the current building and its use as a dwelling or to extend an existing lawful one, would need to fulfil the sequential and exception requirements of policy 115 of the BLP and the Framework. For this reason, and whilst I have noted the comments of the EA and the Council's drainage officers, it is not a requirement to consider the site-specific flood risk assessment that has been provided any further.
12. I therefore conclude that the proposed development would not comply with national or local planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would therefore conflict with policy 115 of the BLP, policy SI12 of the LonP and the Framework. These policies, when read together seek to avoid, where possible, flood risk to people and property.

Other considerations

13. It has been suggested that the use of the building as an office would enable it to be converted to a dwelling under the provisions of Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, I am not aware of any such application being made or granted and it is not my position here to preclude any determination on such an application were it to be made to the planning authority. I am therefore unable to assign any meaningful weight to this matter.

Planning Balance and Conclusion

14. The Council cannot demonstrate a five year supply of deliverable housing sites, and this is not in dispute between the parties. Consequently, the provisions of paragraph 11(d)(i) of the Framework should be applied. It states that in such circumstances permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. This includes policies relating to areas at risk of flooding. As the site is within Flood Zones 2 and 3 and does not comply with policy 115 of the BLP or policy SI12 of the London Plan, I have not gone on to consider the scheme against the requirements of paragraph 11(d)(ii).
15. The proposal would fail to steer new development away from areas at the highest risk of flooding and would provide substandard living conditions for the future occupants. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

Nick Bowden

INSPECTOR