



Appeal Decision

Site visit made on 14 November 2014

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 December 2014

Appeal Ref: APP/C5690/A/14/2224646

50 Ashgrove Road, Bromley, Kent, BR1 4JW.

- 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 J of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by North Star 2000 Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application ref: DC/14/87248, dated 9 April 2014, was refused by notice dated 9 June 2014.
 - The development proposed is prior approval for a change of use from Office falling within Use Class B1(a) to provide 2x1 bed flats (C3) at 50 Ashgrove Road, Bromley, BR1.
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Decision

1. The appeal is dismissed

Procedural/Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) require the Local Planning Authority to assess the proposed development on the basis of potential contamination and flooding risks and its transport and highway impact, taking into account any representations received. My determination of this appeal has been made in the same manner.
3. I am satisfied from the information available to me that the property is not at risk from flooding, as confirmed by the Environment Agency Mapping Service. I have also been provided with a detailed report by Terragen Environmental Consultants dated 15 November 2013. This concludes that "*The risk attributed to the potential for contamination to exist at the site is considered to be low/moderate.*" The report puts forward detailed suggestions as to further investigations and works subject to further approval from the Local Planning Authority.
4. The sole reason for refusal is therefore upon the basis of the alleged transport and highway impacts.
5. Following the site visit I requested clarification upon a number of issues. By email dated 20 November the appellant's agent has confirmed that the appeal relates solely to the building and the access road. There will be no residential

parking provided on site, such that residents would park on Ashgrove Road and walk to the site.

6. It is further confirmed that it is the appellant's intention to submit a planning application for residential use of the land to the rear. This is currently vacant, but was previously used as a yard for scaffolding.

Reasons

7. The building and the adjacent concreted area have for many years been used for employment purposes, most recently as a scaffolder's yard and office. To the south is a light industrial estate (Rellac Works), whilst to the rear beyond the open yard there are playing fields. To the north is residential development.
8. The appeal site is not within a Conservation Area or Area of Special Residential Character.
9. The subject building is of brick construction with a pitched, corrugated asbestos roof. It would be divided internally in order to create two 1 bedroom flats, each to include a living/dining room and kitchen, a master bedroom and a bathroom, together with a study. An area around the perimeter of the building to a depth of 0.75m would be kept clear of obstruction to allow for pedestrian access.
10. Access to the site would be along the existing, hard surfaced roadway located between nos. 48 and 52 Ashgrove Road. This varies in width from 2.9m to 3m over a distance of 43m from its junction with the back edge of pavement of Ashgrove Road. It is proposed that the access roadway would be enhanced by resurfacing and the provision of a series of illuminated bollards approximately 1m high and 12m apart.
11. I have received a copy of a signed Unilateral Undertaking dated 16 October 2014. This provides for improvements to the access roadway as described above, the provision of a sprinkler system for the proposed flat units and arrangements for private refuse collection. I shall refer to this Undertaking more particularly subsequently in my decision.
12. The adjacent property at no. 48 Ashgrove Road benefits from a right of way over the access roadway to a garage located to the rear of its garden. The roadway would serve as the sole means of access to the two residential units and the land to the rear. This comprises a hard surfaced area with a permitted use for employment purposes, which was formerly in use as a scaffolder's yard.
13. As mentioned above, I understand that it is the appellant's intention to submit a planning application for residential use of this area in the future. I note from the relevant planning history that schemes for residential development of the entire site have been refused in the past under refs: DC/05/58796 and DC/08/70221.
14. The appellant has commissioned a detailed transport assessment by ADL Transportation Ltd dated August 2014. This concludes that the development would have no material impact in terms of traffic and there are no reasons to dismiss the appeal upon traffic or highway grounds.
15. The report makes reference to relevant sections of Manual for Streets 2007 ('the Manual') applicable to shared surface streets. Paragraph 7.2.14 advises that subject to making suitable provision for disabled people, shared surface

streets are likely to work well in short lengths, or where they form cul-de-sacs and where the volume of motor traffic is below 100vph, as in this case.

16. Notwithstanding these comments, the dimensions of the roadway and the fact that it is closely contained by brick walls would have the potential to create conflict between pedestrians and both private and commercial vehicles, particularly in the event of an employment use continuing to the rear of the site. The access is of insufficient width to permit the provision of an area of refuge from commercial vehicles, including vans (see fig. 6.18 of the Manual).
17. The width of the access is also below that for emergency vehicles set out at paragraph 6.7.2 of the Manual. Although the proposed flats could be fitted with residential sprinkler systems, there would still remain the need for a fire engine to get to within 45m of the dwelling entrance (see paragraph 6.7.3 of the Manual). The entrance to Unit 1 is some 65m from Ashgrove Road.
18. Clause 7.1.4 of the Unilateral Undertaking provided by the appellant covenants to: *'procure that private refuse collection is available from the Development following Practical Completion for as long as refuse is not collected by the Council.'*
19. In practice this clause would be difficult to enforce and relates to matters that are dealt with under other legislation. Furthermore, given such uncertainty it would not address the need for proper refuse collection associated with residential development. Accordingly, the Undertaking would fail to make the development acceptable in planning terms as required by paragraph 204 of the Framework¹.

Conclusion

20. The appeal site is approached over a narrow, single track roadway with no separate footway. It provides insufficient space for two vehicles to pass and for the provision of pedestrian refuges, or for bin storage in a location to meet the requirements of the Council's refuse service and for access by emergency vehicles.
21. National policy in the Framework at paragraph 32 states, amongst other matters, that: *"Plans and decisions should take account of whether safe and suitable access to the site can be delivered for all people ..."*
22. For all of these reasons, the potential conflict between vehicles and pedestrians and concerns regarding the storage and collection of waste provide justifiable reasons why prior approval should not be granted.
23. I therefore conclude that the appeal should be dismissed.

R. J. Maile

INSPECTOR

¹ The National Planning Policy Framework.