
Appeal Decision

Site visit made on 26 January 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 07 March 2017

Appeal Ref: APP/B1550/W/16/3161661
77 West Street, Rochford, Essex, SS4 1AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Avalon Construction Ltd against the decision of Rochford District Council.
 - The application Ref 15/00488/OUT, dated 15 July 2015, was refused by notice dated 27 April 2016.
 - The development proposed is construction of 1 no. 2 bedroom ground floor flat and 2 no. 1 bedroom flats over 2nd and 3rd floors.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is submitted in outline with some matters reserved for future consideration. The application form indicates that approval is submitted for access, layout and scale. The appeal is considered on this basis. As appearance is reserved the 'typical front elevation' is treated as purely indicative.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of existing dwellings, with particular regard to privacy and provision of garden space.

Reasons

4. The site is a piece of land adjacent to No 77 West Street. The appellant has provided two plans showing the title for the flats 77 and 77A. These show the garden area for the ground floor flat being the same as the area on the site location plan which is consistent with what I observed on the site. I appreciate that this existing area is below the Council's policies. Nevertheless this area sits outside of the appeal site. The appeal proposal would not directly lead to a reduction in the amount of garden space available to this dwelling. In this regard there would not be conflict with policy DM3 of the Rochford District Council Local Development Framework Development Management Plan (DMP) which seeks to avoid the loss of amenity space for neighbouring dwellings.
 5. The main parking area for the new dwellings would be adjacent to the garden area for the ground floor flat at No 77. In addition the visitor parking area would be adjacent to its side boundary. Beyond this would be the access for the site. This would introduce the movements associated with the parking and
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turning for three new dwellings. This would represent a marked change from the current situation. As such the position of the car parking would give rise to unacceptable levels of noise and disturbance to existing occupiers. This would be particularly noticeable and intrusive during summer months when the garden area is likely to be used more intensively and windows left open.

6. The grounds of appeal give the resultant distance between the front of the new building and the existing dwellings as being about 20.4m. I understand that the Supplementary Planning Document Housing Design (SPD) and Essex Design Guide (EDG) pre date the National Planning Policy Framework (the Framework) and are not listed in the Council's reason for refusal. I am also conscious of the need to avoid the inflexible application of numeric standards. However, Policy DM1 of the DMP sets out that new development should have regard to the detailed advice in the EDG and SPD as well as DM3. As such I have taken the guidance in these documents into account.
7. I appreciate that the SPD does not set out a specific distance between new and existing dwellings. Nevertheless it is clear that '*...the location of living rooms on any upper floor must not directly overlook the private garden areas of adjoining properties*'. In addition the EDG states that upper storey flats can cause problems of overlooking from living rooms and therefore any rear facing living room should be no closer than 35m distance to the rear of another dwelling.
8. The final appearance of the building is a reserved matter. Layout is before me for consideration and indicated on the submitted plans. It is clear that to accommodate the amount of dwellings that a building of this footprint and scale would have habitable rooms at first floor level. These would face towards the rear garden area of the ground floor unit and rear facing windows of the existing flats. Due to the proximity of the new building any first floor windows to the front elevation would have direct views toward them. The appellants suggest that all windows on the front elevation could be obscure glazed. However, if these are windows for a kitchen or living room ultimately this would not be a satisfactory arrangement for future occupiers.
9. There would not be an issue with the amount of garden space for the existing dwellings. However, overall, the combination of loss of privacy and the resultant noise and disturbance for the existing garden area lead me to conclude that the scheme would have a harmful effect on the living conditions of the occupiers of existing dwellings. It would therefore be in conflict with DMP policies DM1 and DM3.

Other matters

10. I note that the appeal site is suitable for residential development in principle, that this part of Rochford is in general a sustainable location for new housing and that the proposed dwellings would contribute 3 units to the local stock of smaller properties. However, none of these matters alters or outweighs my conclusions on the determining issues in the appeal.

Conclusion

11. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR