



Appeal Decision

Site visit made on 20 June 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 11 July 2017

Appeal Ref: APP/M1520/W/17/3170883

15A Village Drive, Canvey Island, Essex SS8 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Tony Hill against the decision of Castle Point Borough Council.
 - The application Ref 16/0662/REM, dated 24 August 2016, was refused by notice dated 18 October 2016.
 - The application sought planning permission for change of use of existing outbuilding at rear to office space (class A2 financial and professional services) without complying with conditions attached to planning permission Ref CPT/134/13/FUL, dated 26 June 2013.
 - The conditions in dispute are Nos 3, 4, 6 and 7 which state that:
 - 3 The permission shall enure for the benefit of the occupiers of No. 15 Village Drive only and for no other person, without the former consent of the Local Planning Authority.*
 - 4 The use of the building hereby permitted shall only take place in conjunction with the use of No. 15 Village drive as a residential property.*
 - 6 Prior to commencement of the use the existing fences erected across the rear garden of No. 15 Village Drive to create a separate curtilage for the business building shall be removed and the area shall be restored to the garden of No. 15 Village Drive and permanently retained as such.*
 - 7 The business operated from the site shall be operated only by the occupier of No. 15 Village drive and no staff shall be employed, nor clients shall call at the site.*
 - The reasons given for the conditions are:
 - 3, 4 and 6 In order to ensure the retention of an acceptable form of development on the site, ancillary to the use of the dwellinghouse and to protect the amenity of the adjoining residents.*
 - 7 The site lacks adequate parking facilities to meet the needs of both a residential unit and a business unit in a safe and convenient manner.*
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing outbuilding at rear to office space (class A2 financial and professional services) at 15A Village Drive, Canvey Island, Essex SS8 0LJ in accordance with the application Ref 16/0662/REM dated 24 August 2016, without compliance with condition numbers 3, 4, 6 and 7 previously imposed on planning permission Ref CPT/134/13/FUL dated 26 June 2013 and subject to the conditions in the schedule at the end of this decision.

Main Issue

2. Whether the conditions are necessary to protect the living conditions of occupiers of neighbouring dwellings on Village Drive with particular regard to noise and disturbance, and parking.

Reasons

3. The appeal site comprises a small building that was located to the end of the garden of 15 Village Drive until recently, when the house and most of the garden was sold separately. It has planning permission to be used as an office under use class A2 (financial and professional services), but this is limited by condition to use by the occupiers of the dwelling. The building is surrounded by a modest outside area and accessed through a narrow passageway between high close boarded fences that enclose 11 and 15 Village Drive. The outside space provides an area for storage of refuse bins relating to the building and for other uses ancillary to the use of the building.
4. Surrounding development comprises a number of shops backing onto the appeal site with a car park separating the shops and the site. Immediately to the rear is the beer garden of a former public house that is now boarded up, although the area immediately adjacent to the rear of the site is currently treed. Residential development, comprising two storey houses, surrounds the remainder of the site.
5. The reasons for limiting the use of the site by condition relate to the effects of the development on occupiers of surrounding development by reason of noise and disturbance, and to ensure additional parking didn't take place as the surrounding area can be heavily parked. The use of this building allowed a live/work use of the property as a whole, which reduced the need of occupiers to travel and had environmental benefits.
6. The proposed use would comprise office work using computers and the telephone and is limited by condition to the hours of 09.00 to 17.00 on Mondays to Fridays, when the majority of neighbouring residential occupiers would be at work. The fact that occupiers of the building would not live in the adjacent dwelling would not result in the use having more effect on the living conditions of neighbours than if they did live in the dwelling.
7. The use of the building separately from the house would result in more comings and goings as the occupiers access the building for work. It is likely that the users of the building would travel to work by car and, in the absence of any parking on site, would park within public parking spaces. Limited information has been provided regarding any lack of parking and there is no suggestion that there would be an effect on highway safety from parking relating to the use of this small building for commercial purposes. During the limited hours of use, there would be less pressure on parking in the vicinity as most neighbours are likely to be away from their homes at work. Consequently, I do not consider that there would be a material effect on parking in the vicinity should the conditions requested be removed from the planning permission.
8. Whilst travel to the site by car may be undesirable from an environmental perspective, it is not unusual and the site is located adjacent to a centre with a mix of uses. If the appellant was not working from this site, they are likely to

commute to another location, so any additional harm would be limited and, therefore, I give this matter little weight.

9. There is space around the building for storage of refuse bins, but these would need to be moved closer to the highway for emptying. There is no space on the narrow access to the property without blocking it, so it is likely that these would be placed on the grass verge outside. Whilst that would be unattractive, it would be an occasional activity that reflects the manner in which refuse is placed outside dwellings in the street, so would have very limited effect on the living conditions of occupiers of surrounding dwellings.
10. The removal of these conditions would result in the removal of dividing fences between the site and the dwelling at 15 Village Drive. The Council confirm that the fences do not cause harm to the living conditions of adjoining occupiers. I see no reason to disagree with them, so will not retain the conditions for this reason.
11. I conclude that the economic benefits of use of the site for business purposes outweigh the limited environmental and social harm to the living conditions of neighbouring occupiers and to the wider environment described above. For these reasons, I consider that the proposed development would not conflict with Policy EC3 of the Castle Point Borough Council Local Plan (LP) that seek to protect the living conditions of neighbouring occupiers, including noise and other forms of disturbance. Whilst no car parking would be provided to comply with Policy T8 of the LP, I have already concluded that no harm would arise from that lack of parking provision.
12. Reference is made to storage at the site. However, a storage use would not fall within use class A2 for which planning permission has been granted. Such use would require separate planning permission if it were to take place.

Conclusion

13. On the basis of the above considerations, I conclude that the appeal should succeed and I will issue a new planning permission without the disputed conditions.

Conditions

14. In allowing the appeal and granting planning permission I have considered those conditions imposed on the original planning permission, although in some cases I have amended the wording of the original conditions in the interests of clarity. Conditions are necessary to limit the use to that of an office for financial and professional services, to restrict the hours to which the building can be used and restrict rights for extensions and alterations to the dwelling to protect the living conditions of neighbouring occupiers.

AJ Steen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

- 2) The premises shall be used as an office for financial and professional services and for no other purpose (including any other purpose in Class A2(c) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) The office use hereby permitted shall only take place between the hours of 0900 - 1700 Mondays – Fridays and at no time on Saturdays, Sundays or Bank or Public Holidays.
- 4) No development of the type specified in Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended, shall be carried out.