



Appeal Decision

Site visit made on 30 July 2019

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2019

Appeal Ref: APP/M1520/W/19/3227535

Land rear of 66 Manor Road, Benfleet, Essex, SS7 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Sharon Oram against the decision of Castle Point Borough Council.
 - The application Ref: 18/1034/FUL dated 24 November 2018, was refused by notice dated 21 January 2019.
 - The development proposed is described as proposed change of use of existing annexe ancillary to No. 66 Manor Road to single dwelling unit.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of existing annexe to single dwelling unit at land rear of 66 Manor Road, Benfleet, Essex, SS7 4BG in accordance with the terms of application Ref: 18/1034/FUL dated 24 November 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and drawings: OS MAP Location Plan; 130/18/A; 130/18/B.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting that Order), no development specified in Classes A, B, C, D and E of Part 1 of the Second Schedule to that Order shall be carried out other than those expressly authorised by this permission.

Application for costs

2. An application for costs was made by Mrs Sharon Oram against Castle Point Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. In the planning application form the site address has been described as 'Site rear of No. 66 Manor Road'. I have changed the address in the banner above to that set out in the Council's decision notice, which is more reflective of the description of the site.

4. The description of development as set out in the planning application form is set out in the banner heading above. For the avoidance of doubt, it is clarified in the Council's decision notice and the appellant's appeal questionnaire that the proposed development is for the 'change of use of existing annexe...'.
5. In the formal decision in paragraph 1 above I have also removed the reference to 'ancillary to No. 66 Manor Road' from the description of the development, as it is superfluous and not an act of development.
6. In the evidence there appears to be some disagreement between the appellant and Council in respect of whether the change of use has already taken place or not. I note that there is no reference to the change of use being retrospective in the description of the development in the planning application form. I did not note any of the proposed physical alterations set out in the application having taken place. I have also not been offered substantive evidence that demonstrates that the change of use has already taken place. Therefore, I have assessed the proposal based on the description of development in the planning application form.

Main Issues

7. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of future occupants, with particular reference to external living space; and,
 - highway and pedestrian safety, with particular regard to parking arrangements.

Reasons

Character and appearance

8. The appeal site was part of the side/rear garden of 66 Manor Road, from which it has been fenced and gated. The annexe is understood to be occupied by a relative of the occupants of No. 66 who maintained use of some of the facilities of the main dwelling. The appeal site includes a hard-surfaced parking area to the front that is split by a wall and gate across part of the front elevation, to provide a separated amenity area.
9. The appeal site is separated from the main property to the north by an approximately 1.8 metre (m) high fence and a gate. To the east there is a small gap between the rear of the annexe and the approximately 2m high boundary fence of the garden of 26 Chesterfield Avenue in which a sizeable garden shed lies next to the boundary. Behind the fence and shed on this rear elevation a small window would be located to serve the proposed altered bathroom but would be screened from outside the appeal site.
10. The plot size of around 120 square metres is smaller than other plots nearby which are generally between around 200 – 500 square metres. However, it is understood that the building has existed in its current form for around 10 – 11 years, being occupied as an annexe periodically, which it could continue to do so, with the existing boundary walls and fences as such. I have had no substantive evidence put to me, to suggest that the current physical development cannot remain, or is required to be removed, if it is not occupied

as an annexe. This is an important material consideration which carries substantial weight in my decision.

11. Whilst a wall and gate cuts across part of the front elevation, it does not appear incongruous by being significantly smaller than other plots. The boundary separating the appeal site from the main dwelling house is largely screened behind existing walls and fences. Therefore, the appearance of the appeal site as having a smaller rear amenity area is not unduly perceptible from outside the site or host dwelling. Furthermore, there is no change to the appeal site in this regard, to the current boundary arrangements. Therefore, based on the evidence before me I cannot conclude there would be any discernible harm to the character and appearance of the area from the development.
12. For the reasons set out above, I find no conflict from the proposed development in respect of Policies EC2 of the Castle Point Borough Local Plan (1998) (the Local Plan) and RDG1 of the Castle Point Residential Design Guidance Supplementary Planning Document (2013) (the SPD). These amongst other things, seek a design that is appropriate to its setting, and which should not harm the character of its surroundings. Similarly, there would be no harm in respect of paragraph 127 of the National Planning Policy Framework (the Framework) which states that planning decisions should ensure developments are sympathetic to local character and the surrounding built environment.

Living conditions

13. The private amenity area occupies a space of around 32 square metres, which is well below the 50 square metres required by Policy RDG6 of the SPD. Being mostly located along the side of the building and a small part of the frontage it has a relatively narrow but useable shape. I observed that it currently provides a reasonably pleasant seating area, and there appears to be space for some other activities such as drying clothes, planted pots, storing bicycles or other bulky items outside. There would also be space for some bin storage at the front of the dwelling. Therefore, whilst being significantly below the SPD standard, the space could not be considered wholly inadequate.
14. The Council has pragmatically considered the provision of other public outdoor space in the local area, which the Council advises is approximately 700m away. Such a distance would not in my view represent a convenient alternative for a future occupier. Although, the size of the accommodation means it would be highly unlikely to be occupied by a family. I note there is lower space standards required for flats, but this is generally due to shared spaces and facilities.
15. Nevertheless, whilst there would be some conflict with the SPD's outdoor space standard, I do not consider that in this case this would result in discernible harm to the living conditions of future occupiers. The Council has not referred me to any relevant development plan policies, but I am satisfied that it would not conflict with paragraph 127 of the Framework, which requires planning decisions should create places that promote health and well-being with a high standard of amenity for future users.

Parking arrangements

16. Policy T8 of the Local Plan states that adopted parking standards will be applied, which for the proposed development would be one standard space measuring 2.9m x 5.5m. Whilst having more than sufficient width it only has a depth of around 4.5m, so the space does not allow parking in accordance with the approved standard. However, the depth would be able to accommodate a small to medium sized car. I note the appellant has intimated that whether the proposed development is approved or not, the space would continue to be used for parking. On this basis the outcome of this appeal would appear to have little bearing on its use.
17. Were a future occupier to have a larger vehicle parked on the space then there could be an issue of convenience caused to pedestrians. However, an issue in respect of highway safety because of such a large overhang from a vehicle appears unlikely given the size of the space and the width of the pavement and verge. While my visit can only represent a brief snapshot of normal conditions, I noted little foot traffic which suggests instances that the development could impede convenient use to pedestrians might be infrequent. However, this situation could arise anyway, with or without this appeal being allowed.
18. I also noted little on-street parking in the area, and many driveways close the appeal site appeared capable of accommodating two or more vehicles. Therefore, based on the evidence before me, I see no reason to conclude there would be any harmful impact in respect of highway safety if future occupants were to park on the street.
19. It is notable that there are no concerns raised from the Highway Authority on this matter. In spite of the Council's suggestion that their focus is more strategic matters, I have seen no such evidence of this.
20. For the reasons set out above the proposed development would have a minor degree of conflict with Policy EC2 of the Local Plan which seeks to ensure all modes of movement are convenient. The smaller space would conflict with Policy T8 of the Local Plan and RDG12 of the SPD, which expects the size and layout of all forms of parking to reflect current adopted vehicle parking standards. However, the space is likely to be continued to be used as such with or without this appeal being allowed, so I am not convinced there would be any material harm to highway or pedestrian safety as a result.

Other Matters

21. I have considered the Council's arguments that the grant of planning permission would set a precedent for other similar developments. However, no directly similar or comparable sites to which this might apply have been put forward. Each application and appeal must be considered on its individual merits, and a generalised concern of this does not justify withholding permission in this case. This has not therefore had any particular bearing on my decision.

Planning balance

22. Section 38(6) of the Planning & Compulsory Purchase Act 1990 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

23. The Council has acknowledged that it cannot demonstrate a deliverable five-year housing land supply. Neither the Council or the appellant has provided me with evidence as to the nature of the shortfall. In such circumstances, paragraph 11 of the Framework states that the most important policies for determining the application are out-of-date and that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
24. The proposed development would result in the provision of a new dwelling in what can be considered a sustainable location well placed for access to services and facilities. There would be a very small temporary economic benefit resulting from the conversion, and once occupied a small sustained benefit to the local economy. There would be a benefit from supporting strong, vibrant and healthy communities through the supply of a single dwelling, particularly where there is an acknowledged short-fall in deliverable housing land supply. I attach moderate weight to these benefits.
25. The only adverse impact of granting permission would be through the small degree of conflict with Policy EC2 and T8 over the size of parking space provided. However, I am not convinced that this would result in any significant risk to the safety of pedestrians or road users, but there might be a minor convenience issue that could occur. As such, I have not given significant weight to this conflict with policy. In-light of this, I conclude that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. This is an important material consideration which weighs in favour of the development.
26. In conclusion, I am therefore satisfied that in the circumstances of this appeal, there are material considerations which lead me to a conclusion other than in accordance with the development plan.

Conclusion

27. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

28. As well as the standard condition specifying the time limits for commencement of development, compliance with the approved plans is necessary to provide certainty. In order to ensure that the current levels of residential amenity and off-street parking for occupiers is retained, the prominent visibility of all roof planes of the building, and the close proximity to neighbouring properties, I consider it necessary to attach the Council's suggested condition withdrawing permitted development rights for certain classes of development.

Dan Szymanski

INSPECTOR