
Appeal Decision

Site visit made on 20 August 2019

by Neil Smith BA Hons BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/D1590/W/19/3229851

50 Milton Road, Westcliff-on-Sea, Essex SS0 7JX

- 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 Mr Barry Nutkins against the decision of Southend-on-Sea Borough Council.
 - The application Ref 18/01973/FUL, dated 21 September 2018, was refused by notice dated 21 December 2018.
 - The development proposed is part demolition of existing garage and storage building conversion and erection of a two storey building with a pitched roof over to create a 1 bedroom unit and a 2 bedroom unit.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The third reason for refusal refers to a property as "plot 1 Milton Close Mews" however the Officer's report highlights that the property is "No 1 Milton Gate Mews". I saw on my site visit the adjoining property is No 8 Milton Garden Mews and I have determined the appeal in relation its effect on No 8.

Main Issues

3. The main issues are the effect of the proposals on:
 - the supply of employment land;
 - the living conditions of the future occupiers with particular regard to daylight and outlook and those of 46, 48 and 50 Milton Road and No 8 Milton Garden Mews with regard to privacy, overbearing and enclosure;
 - the character and appearance of the area.

Reasons

Supply of Employment Land

4. The appeal site accommodates Nos 48 and 50 Milton Road, a pair of semi-detached properties with commercial use on the ground floor and residential at first floor. The land to the rear is made of hardstanding and there is a part single, part two storey building which is rectangular in shape, which appears to be in a good state of repair. The site also partly extends to the rear

of No 46 which is overgrown. Access is gained at either side of Nos 48 and 50. Adjacent to the appeal site at the rear No 52 is a part single, part two storey commercial building. Milton Road has a mixture of two and three storey commercial and residential buildings some of which have buildings to the rear. To the rear of the site is Milton Garden Mews, a recently completed residential backland development.

5. The appeal proposals seek to replace the existing building to the rear with a two-storey building to create a self-contained flat on each floor. Policy DM11 of the Development Management Document 2015 (the DMD) requires, amongst other things, that planning applications must demonstrate that the premises have been vacant and that there is no demand for use of the building for employment purposes during a period of at least two years. The evidence indicates that the premises are used for storage purposes and that no one is currently employed on site. Whilst this may be the case there is a lack of clear and robust evidence to demonstrate that the premises could not be used for employment use. In the absence of such evidence, the proposals would have a harmful effect on the supply of employment land within the Borough.
6. The proposals would therefore conflict with Policies KP1, KP2 and CP1 of the Southend-on-Sea Core Strategy (2007) (the CS) and Policies DM3 and DM11 of Southend-on-Sea Borough Council Development Management Document 2015 (the DMD) which seek, amongst other things, to retain land for employment purposes.

Living Conditions

7. The proposed building would occupy a similar width as Nos 48 and 50 and would sit on the rear most part of the site based on the illustrative submissions. Amenity space would be provided to the side, at the rear of No 46, and would wrap around part of front of the building.
8. The ground floor flat would have two bedrooms to the front elevation served by windows and sat behind them would be the kitchen and living room which would not have any windows. The bedroom, kitchen and living room of the first floor flat would have windows with obscured glazing. The lack of windows to serve the living room and kitchen of the ground floor flat would result in unacceptable levels of daylight.
9. The private amenity space proposed for these two dwellings would offer light and outlook. However, their use would be limited particularly beyond the summer months, such that their presence would not compensate for the inadequacy of the proposed internal space as outlined above.
10. The first-floor windows and roof terrace would be in close proximity to the garden of 8 Milton Garden Mews and the windows of the neighbouring properties at Nos 46, 48 and 50. The prevalence of these windows and the large roof terrace in such close proximity to its neighbours would cause harm by reason of perceived overlooking and a loss of privacy.
11. Whilst the proposal would be located at the rear of the site, the front elevation would be in close proximity to the rear walls of Nos 46, 48 and 50, which have windows serving bedrooms at first floor. It would introduce a two-storey building abutting part of the rear garden of No 8 and would be close to its rear elevation, which has windows serving habitable rooms at ground and first

floors. Given the likely proximity of the proposals to their immediate neighbours they would appear over dominant and overbearing by reason of its height, scale and massing. Whilst I note that the proposal would provide a low eaves to 8, this does not outweigh the harm identified due to the excessive bulk of the building.

12. For the foregoing reasons, the proposal conflicts with Policies KP2 and CP4 of the CS; Policies DM1, DM3 and DM8 of the DMD and the Southend-on-Sea Design and the Townscape Guide (2009) (the TG) which together, amongst other things, seek to protect the living conditions of existing and future residents.

Character and Appearance

13. I note that the proposed intention is that the appeal development would have a modern design to reflect the Milton Garden Mews scheme. The proposal would be modern in design with a saw tooth roof incorporating roof lights and a first-floor terrace at the side of the building. Two car parking spaces would be provided in the yard area.
14. In contrast the appeal proposal would appear as a cramped form of development with the resultant building occupying a large proportion of the site in very close proximity to the adjoining properties. It would therefore be, by reason of its excessive size, bulk and massing be out of character with the prevailing pattern of development in the area. It would also differ from the dwellings at Milton Garden Mews which are larger dwellings with significantly more amenity space to the front and rear.
15. The appeal proposal, therefore, conflicts with Policies KP2 and CP4 of the CS, Policies DM1 and DM3 of the DMD and the TG (2009) which together seek to ensure high quality development which adds positively to the local character.

Other Matters

16. I have been made aware that the appeal proposal is in an accessible location and is close to a range of services. The appellant has also drawn my attention to other development in the area, albeit none identified specifically. That said the proposals in each circumstance are likely to have been different and, in any event, the fact that similar developments have been granted planning permissions is not, on its own, reasons to allow unacceptable development. Indeed, none of these considerations outweigh the significant harm and the associated conflict with development plan.

Conclusion

17. The appeal should be dismissed.

Neil Smith

INSPECTOR