
Appeal Decision

Site visit made on 22 October 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/M1595/W/19/3235163

12 London Road, Stanford-le-Hope SS17 0LL

- 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 J O'Brien against the decision of Thurrock Borough Council.
 - The application Ref: 19/00703/FUL, dated 1 May 2019, was refused by notice dated 3 July 2019.
 - The development proposed is to demolish rear garage block, and erect proposed two-storey side extension, part single part two storey rear extension to form four self-contained flats consisting of two 2 bed units and two 1 bed units along with associated cycle and bin store, landscaping and car parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council amended the description of the development from 'demolish rear garage block, and erect proposed two storey side extension, part single part two storey rear extension to form 4Nr self contain flats consisting of 2nr 2 bed Units and 2 Nr 1 bed units, bin stores to rear, landscaping and cycle storage.' to 'demolish rear garage block, and erect proposed two-storey side extension, part single part two storey rear extension to form four self-contained flats consisting of two 2 bed units and two 1 bed units along with associated cycle and bin store, landscaping and car parking'. The appellant has also used this description on the appeal form. I consider that this is a more succinct description of the proposed development and have therefore determined the appeal on this basis.

Main Issues

3. The main issues are:
 - whether satisfactory living conditions would be provided for the future occupiers of the development, with particular regard to privacy; and
 - the effect of the development upon the surrounding highway system.

Reasons

Living conditions

4. The proposed development consists of a multi-storey building that would contain four flats and includes a communal garden. One of the flats would be

- located on the ground floor, with the windows of two bedrooms facing the garden area. A further first floor flat would feature a balcony that would also face the garden.
5. The garden would potentially be used by all occupiers of the development, who might not necessarily be known to one another. This arrangement would cause conflict with the aforementioned ground floor flat, as views into the dwelling's windows would be possible.
 6. These windows would serve bedrooms, which would naturally be private spaces for the occupiers of the dwelling. The potential for several people, possibly unknown to the occupiers of the flat, to move or play in proximity to the windows would conflict with this objective owing to the possibility of direct views taking place into the bedrooms. In consequence, this arrangement would prevent the occupiers of Flat 2 (as shown on the submitted plans) from having a suitable level of privacy necessary to secure satisfactory living conditions.
 7. I have had regard to the appellant's suggestion that a condition could be imposed that would ensure the provision, and retention, of screening in front of these windows; or that residents of the flat could install net curtains or blinds. However, such measures would restrict the levels of light and outlook available to these rooms. I therefore do not find that these potential measures would overcome the concerns as previously identified.
 8. It is acknowledged that the proposed development includes a balcony, from which views of the communal garden would be possible. However, it is clear from the submitted documentation that the garden would be shared and, accordingly, residents of the development would be aware that whilst within the garden, they might be joined by an occupier of a different flat. As a result, the balcony would not lead to a further erosion of the expected levels of privacy.
 9. In addition, I do not appear to have been directed towards any planning policy that prevents flats from having communal garden areas. I also note that a park (complete with play equipment) is located within a very short distance of the appeal site, which might also serve as an alternative location for recreation or play. Despite these findings, I do not believe that they outweigh the previously identified significant harm.
 10. My attention has been drawn to a nearby proposal, currently under development, at The Arches in London Road. I have not been provided with complete information regarding the planning circumstances of this scheme, which reduces the weight I can attach to this development in my considerations. However, I note that this development features a different internal layout as well as a contrasting amount of fenestration. As a result, I therefore find that the experiences of the future occupiers of the scheme before me would be different and, as a result, the presence of The Arches does not require me to set aside my previous conclusions.
 11. I therefore conclude that the proposed development does not provide satisfactory living conditions, and particularly an appropriate level of privacy, for all the future occupiers of the development. The proposal, in this regard, fails to comply with the requirements of Policy PMD1 of the Thurrock Local Development Framework Core Strategy Policies for Management of Development (as amended) (2015) (the Core Strategy). This policy, amongst

other matters, seeks to ensure that new developments do not create an unacceptable effect on the living conditions of the future occupiers of the development.

Highway matters

12. The appeal site is in an area where a number of dwellings feature off street car parking spaces. This results in the provision of numerous dropped kerbs within the vicinity. In addition, the site is close to public transport links in the form of a bus stop and railway station. The wider environs of the site include some shops and commercial facilities.
13. The development features a single off-street car parking space. I have not been provided with evidence regarding any adopted parking standards and note that, notwithstanding the wording of Policy PMD8 of the Core Strategy, a parking Supplementary Planning Document has not been referenced in the refusal reason, or the Council's delegated report.
14. Notwithstanding this, Policy PMD8 states that the physical works of a development should prevent inappropriate on-street car parking in order to ensure access for service and emergency vehicles. This is in conformity with the requirements of the National Planning Policy Framework (the Framework), which states that developments that would have an adverse impact on highway safety should be resisted. Accordingly, Policy PMD8 carries some weight in my considerations.
15. The development contains four dwellings, two of which would have two bedrooms with the remainder, one bedroom. Potentially, a number of people would live within the development. Whilst I acknowledge that residents of the dwellings would have reasonable access to public transport and some retail and commercial facilities, there is a likelihood that residents may still elect to undertake some journeys by private car.
16. Given the relative lack of on-site car parking spaces, some cars would be displaced onto the surrounding road network. This poses a particular concern on the grounds that the vicinity features a number of parking restrictions (including double yellow lines) and dropped kerbs. In result, there does not appear to be an abundance of on street car parking within the vicinity of the site. In consequence, the increased demand for car parking is likely to encourage unsafe car parking practices.
17. Whilst there may be enforcement powers available to tackle inappropriate parking in those areas with restrictions, there is a likelihood that this would displace parking into areas without such restrictions. This competition for spaces is likely to increase the likelihood of unsafe parking practices.
18. I have given consideration as to whether it would be possible to prevent occupiers of the development from having access to a private car. However, I have no form of a legal agreement before me that might secure this. Furthermore, I am not persuaded that a condition to secure a lack of car ownership would be compliant with the requirements of Paragraph 55 of the Framework.
19. I have also considered whether a condition could be imposed that would require a legal agreement to be entered into before a defined trigger point has been reached. However, the National Planning Practice Guidance (the PPG) is

clear in that such conditions should only be used in exceptional circumstances. The evidence before me is not indicative that such exceptional circumstances apply to this development. In consequence, whilst the number of vehicle movements may not be large, I do not believe that the impact upon highway safety arising from inappropriate parking can be adequately mitigated.

20. My attention has been drawn to the development at The Arches in London Road, which does not feature any off-street car parking. I do not have the full information regarding the planning circumstances of this development but note that it appears to have been approved in 2016. Therefore, this development was approved prior to the publication of the aforementioned guidance within the PPG. As a result, I do not believe that this development requires me to set aside my previous concerns regarding highway safety.
21. I therefore conclude that the proposed development would adversely affect highway safety. In consequence, the development fails to comply with the requirements of Policies PMD8 and PMD9 of the Core Strategy and the Framework, which, amongst other matters, seek to ensure developments provide appropriate access, prevent inappropriate on street car parking, and ensure developments do not impinge upon highway safety.

Other Matter

22. I acknowledge that the communal garden may be large enough to meet the needs of the occupiers of the development, however, this does not outweigh the harm that would arise to the occupiers of one of the flats arising from a lack of privacy.

Conclusion

23. For the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR