



Appeal Decision

Site visit made on 12 August 2019

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2020

Appeal Ref: APP/A1530/W/19/3230019

15B Point Chase, London Road, Marks Tey CO6 1FN

- 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 J Usher against the decision of Colchester Borough Council.
 - The application Ref 190312, dated 30 January 2019, was refused by notice dated 27 March 2019.
 - The development proposed is conversion of existing roof space of Block A2 to create 1no. 1 bed flat, together with allocation of 1no. car parking spaces.
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Decision

1. The appeal is dismissed.

Main Issue

2. Whether the proposal would provide adequate living conditions for future occupiers with particular reference to the provision of outdoor amenity space.

Reasons

3. The appeal development proposes the creation of a one-bedroom residential flat utilising the roof space of residential Block A2 at Point Chase and the provision of a car parking space. The proposal includes a large roof window that opens up to create a covered space. There are two further blocks of flats either side of Block A2 and behind them a car park and communal grassed space which serves all the flats.
4. Policy DP16 of the Council's Development Policies (DP) adopted 2010, updated 2014, concerns private amenity space for new residential development and requires all new residential development to provide private amenity space to a high standard. For flats, it identifies a minimum of 25 square metres per flat to be provided communally (where balconies are provided the space provided may be taken off the communal requirement). Policy DP11 of the DP requires, amongst other things, that proposals should not result in an unsatisfactory living environment for prospective occupiers and to provide adequate private amenity space. A combination of the balconies and shared communal areas were considered appropriate for the original flats according to the Council's Statement. I note the reliance on private balconies in order to achieve this appropriate amount of private amenity space.
5. The appellant considers that a balcony at roof level would detract from the appearance of the building, and so with this in mind the proposal includes a large full height roof window that opens out to create a covered space that

would be smaller than a typical balcony but slightly more than a Juliet balcony. I appreciate that this has been designed to respect the appearance of the host building including its ridge height. It is intended to allow the future occupiers to step into the created space and would allow to some extent engagement with the outdoors and would offer wide views. However, it would only provide a very minimal amount of private amenity space of limited practical use. As such, I am not persuaded that in this instance the space that would be provided by the proposed roof window would function as a balcony or can reasonably be taken off the communal space requirement (under the terms of DP Policy DP16).

6. The appeal proposal includes no provision for any communal amenity space. Whilst the appellant indicates that the future occupiers would benefit from access to the existing shared communal garden area, I am conscious that this already serves the existing flats and its extent and nature reflects the number and design of the existing flats. I also note the points raised by the Council and local residents as to its limited size and quality. It is clear from the evidence provided that the existing flats were permitted on the basis that their balconies would be the main source of amenity space for their occupiers (rather than the communal garden area). Furthermore, as part of the proposal, part of that existing garden area would be lost in order to provide the required parking space for the appeal scheme. In this context, the proposal could lead to an intensified use of that existing area as well as a reduction in its overall size.
7. Consequently, in the absence of a balcony or the required communal provision as described, the future occupiers of the proposed flat would not be provided with adequate amenity space in which to sit and enjoy the outside environment. This being so the proposal would not provide suitable living conditions for future occupiers leading to a poor quality of life and it therefore fails to comply with DP Policies DP11 and DP16.
8. The appellant highlights a planning application granted in 2017 for two one-bedroom flats in the roof space of the neighbouring Block A3. The appellant advises that whilst that scheme originally included terraced areas, they were subsequently removed due to overlooking concerns and that despite this, no additional communal area was provided as part of that scheme. The appellant has provided the delegated report for that permission which indicates that there is an existing communal garden and makes no other requirements in terms of amenity space. I have seen no response from the Council on this matter. However, whilst I understand the appellant's concerns in terms of consistency in the Council's decision making, the merits of that scheme and the subsequent living conditions that were provided for the occupiers of those flats are not before me. Moreover, the existence of development nearby that apparently fails to provide amenity space in line with development plan policy, does not in itself justify the granting of further such sub-standard development which I have found to be harmful.
9. Accordingly, I find the proposal would not provide suitable living conditions for future occupiers, with particular reference to the provision of outdoor amenity space. As such, it fails to comply with DP Policies DP1, DP11(vi), DP12 and DP16 of the DP and Policy UR2 of the Council's Core Strategy, adopted 2008, updated 2014 (CS) and paragraph 127f of the National

Planning Policy Framework. These policies together seek, amongst other things, for development to provide a high standard of amenity for occupiers.

Other Matters

10. The proposal provides an additional residential unit that utilises an existing unused building roof space. I acknowledge that Government policy supports development on previously developed land and seeks to boost housing supply. However, the benefit of additional housing in this case does not outweigh the harm I have identified.

Conclusion

11. For the reasons set out above, I conclude that the appeal should be dismissed.

L Gilbert

INSPECTOR