



Appeal Decision

Site visit made on 18 February 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2020

Appeal Ref: APP/M1595/W/19/3241066

13 Crouch Road, Chadwell St Mary, Essex RM16 4BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Randal Jardine against the decision of Thurrock Borough Council.
 - The application Ref 19/01117/FUL, dated 21 July 2019, was approved on 15 December 2019 and planning permission was granted subject to conditions.
 - The development permitted is a 6 Bedroom House of Multiple Occupation on land adjacent to 13 Crouch Road.
 - The condition in dispute is No 5 which states that: *"Notwithstanding the provisions of Schedule 2, Part 1 Classes A, B and E of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions, alterations to the roof space or separate buildings shall be erected within the curtilage of the dwelling hereby permitted without planning permission having been obtained from the local planning authority."*
 - The reasons given for the condition is: *"In order to safeguard the amenities of neighbouring occupiers and in the interests of visual amenity of the area in accordance with policies PMD1 and PMD2 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development [2015]."*
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Decision

1. The appeal is allowed and the planning permission Ref 19/01117/FUL for a 6 Bedroom House of Multiple Occupation on land adjacent to 13 Crouch Road at 13 Crouch Road, Chadwell St Mary, Essex RM16 4BX granted on 15 December 2019 by Thurrock Borough Council, is varied by deleting condition No 5.

Background and the Main Issue

2. Planning permission for the proposal included the disputed planning condition, which removes permitted development rights for alterations and extensions to the proposed building, including to its roof, and for other structures within its curtilage. The Council's statement indicates that the condition is necessary to protect the character and appearance of the area and to safeguard the living conditions of neighbouring occupiers, including in terms of the implications of parking within the site.
3. In light of this, the main issue is whether or not the condition is reasonable and necessary in the interests of the character and appearance of the area or the living conditions of neighbouring occupiers.

Reasons

4. Paragraph 55 of the National Planning Policy Framework (the Framework) requires that planning conditions be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Furthermore, paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Advice in relation to such matters is also provided in the Planning Practice Guidance¹, which states that the blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
5. I acknowledge that the disputed planning condition would enable the Council to retain a measure of control over the future development of the site to avoid, amongst other things, overdevelopment and to protect against harm to the character and appearance of the area and the living conditions of neighbouring occupiers. However, there is no substantive evidence before me to suggest that future development of the appeal property enabled by full permitted development rights, would result in greater harm than similar development associated with other houses within the locality.
6. Moreover, there is nothing extraordinary about the site that would set it apart from other houses within the local area. In particular, like the footpath leading along the side boundary of the site, there are numerous footpaths in the locality that provide visibility of the side and rear of many of the houses nearby. Furthermore, there do not appear to be other properties in the immediate locality without permitted development rights, so these could be altered, in accordance with those rights, without the need for planning permission.
7. The apparent fear of unauthorised work being carried out in the site in association with greater occupation of the appeal property, due to lack of inspections, would also appear to be without substance. Moreover, I note that the proposal would be subject to annual inspections by the Council's HMO Licensing Department. This brings with it a greater level of scrutiny, particularly in relation to the number of occupants. Similarly, although there is no detail before me in relation to the enforcement cases associated with the appeal site, the apparent history of complaints would suggest that unauthorised development in breach of the planning permission would be unlikely to go unnoticed by neighbouring occupiers.
8. There are also other factors that I have taken into account in the consideration of the individual merits of the appeal, namely that the planning permission restricts, by another condition that is not subject of this appeal (No 6), that the proposed development could not be occupied by any greater than six persons. Therefore, the proposal could not be occupied by more persons, unless that condition were to be breached. Whilst this is a matter for the Council's planning enforcement function to address and resolve, this nonetheless exists as a further means for the Council to manage the intensification of the use of the site if they feel it necessary. Accordingly, this highlights again that Condition 5

¹ Paragraph: 017 Reference ID: 21a-017-20190723, Revision date: 23 07 2019.

fails to have any additional worthwhile function and is consequently unnecessary.

9. In light of the above, I conclude that the condition is not reasonable or necessary in the interests of the character and appearance of the area or the living conditions of neighbouring occupiers. Hence, the proposal would accord with Policies PMD1 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015). Together these policies require that development must contribute to the character of the area in which it is proposed and will not be permitted where it would cause unacceptable effects on the living conditions of future occupiers of the site or others.

Conclusion

10. For the reasons outlined above, I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR