

Appeal Decision

Site visit made on 16 June 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2020

Appeal Ref: APP/M1520/W/20/3244544

Land to rear of 36 Brook Road, Benfleet, Essex SS7 5JA

- 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 Chris Higgins against the decision of Castle Point Borough Council.
 - The application Ref 19/0147/FUL, dated 22 February 2019, was refused by notice dated 2 August 2019.
 - The development proposed is construct detached 2 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on
 - the living conditions of nearby residents, with particular reference to privacy;
 - flood risk; and
 - the character and appearance of the area.

Reasons

Living conditions of nearby residents

3. The existing flats have windows on the rear elevation and the upper floor has two small balconies which enable views across the rear of the site where there are areas of shared amenity space and also towards the neighbouring gardens. The proposed dwelling would be located at the rear of the site and have the majority of its windows on the side elevations.
4. The proposed south elevation would have a lounge window and a kitchen window, which would face towards the garden of 36/38 Brook Road. The boundary of which is adjacent to the existing vehicular access and is enclosed by a low fence which currently permits views across into it. The kitchen window, having regard to its size and its distance from the boundary would not lead to a loss of privacy.

5. The window serving the lounge is a corner window and is located much closer to the boundary with 36/38 Brook Road. I accept that the parking and turning area for the proposed dwelling would be adjacent to the lounge window, which would, when a vehicle is parked there, limit some of the views out. However, the dwelling would have raised floor levels and therefore some views out over the parked cars and the proposed 1.8m fence would be possible.
6. On the side elevation, two French doors are proposed, with a raised platform and steps down into a private amenity space. The extent of glazing proposed and its position above ground level would afford views across into the amenity space for the existing flats, albeit this is currently a shared space, and into the garden of 34 Brook Road. Although some screening currently exists as a result of existing landscaping, I consider that in particular views from the raised platform would be particularly intrusive.
7. I note the appellants suggestion that overlooking towards 34 Brook Road could be mitigated by an obscure sight screen, but no details have been provided of any such screen and how this would impact on outlook from the proposed bedrooms. As a result, I do not consider it appropriate for this level of detail to be left to be agreed by condition as it is not possible, on the information before me, to conclude that any solution would provide future occupiers with acceptable living conditions with regard to outlook.
8. Although the amenity areas of both the existing flats and the garden areas of neighbouring dwellings do suffer from a degree of overlooking from the existing flats, the position of the proposed dwelling in close proximity to the rear gardens and the introduction of further windows at a raised level would result in a further loss of privacy. I conclude that the proposal would harm the living conditions of adjoining residents contrary to RDG5 of the Castle Point Residential Design Guidance Supplementary Planning Document 2013, which sets out guidance with regard to the maintenance of privacy from new developments.

Flooding

9. I have not been provided with any relevant development plan policies and therefore I have applied the policies in the Framework in assessing the potential of impacts from flooding. The Framework and the Planning Practice Guidance (PPG) indicate that residential development should be directed away from areas at risk of flooding into Flood Zone 1, the area of lowest flood risk. The submitted Flood Risk Assessment identifies that the site is within Flood Zone 3a, which has a high probability of flooding.
10. Paragraph 158 of the Framework states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The construction of a bungalow is classified as a 'more vulnerable' development as defined within the PPG. Therefore, the PPG requires the appellant to carry out a sequential test which compares the proposed site with other available sites to show which one has the lowest flood risk.
11. The appellant has advanced a case whereby the bungalow, due to its raised floor level and use of voids beneath the building, would not result in a loss of floodplain storage. However, in the absence of a sequential test, the proposed development is unacceptable in principle, and therefore it is not necessary for

me to consider the detailed flood mitigation proposals. It is only if the appellant could demonstrate that there are no reasonably available sites in Flood Zone 1 that I would go on to consider this mitigation as part of the exception test.

12. As it has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding the proposal is contrary to the Framework and the PPG.

Character and appearance

13. The site is located to the rear of 36A-E Brook Road, which is a three storey building with mansard roof and comprises garages and parking in association with the existing flats. Brook Road is a residential street, with a variety of house types, sizes and styles, although the predominant character is of single and two storey frontage development.
14. The majority of the properties front onto Brook Road with parking predominately within the frontage and benefit from good sized gardens to the rear. Brook Road is characterised by a linear form of development and I acknowledge that dwellings behind the developed frontage are not a feature of the area.
15. That said, the appeal site already contains a flat roof block of garages and the proposed bungalow would replace these garages with a building of a similar footprint and scale and the access is already in existence. I accept that the dwelling would be visible from Brook Road but so is the existing garage. Furthermore, the garage is utilitarian in appearance and does not make a positive contribution to the street-scene. The proposed dwelling, due to its windows and doors and mix of materials, would have a more interesting and superior appearance to the garage. Overall, the appearance of the site would be somewhat improved by the proposal.
16. I therefore conclude that the proposed development would not harm the character and appearance of the area. The development would be in accordance with policy EC2 of the Castle Point Borough Council Local Plan, 1998 (LP) which requires new buildings to adhere to high standards of design, appropriate to its setting and not harmful to the character of its surroundings. The development would also accord with paragraphs 117 and 127 of the Framework.

Conclusion

17. I find some benefit to the character and appearance of the area, but this is outweighed by the harm I find in relation to living conditions and flooding and therefore, I dismiss the appeal.

G. Pannell

INSPECTOR