
Appeal Decision

Site visit made on 22 December 2020

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 25 January 2021

Appeal Ref: APP/D1590/W/20/3254089

18 Kilworth Avenue, Southend-on-Sea, Essex, SS1 2DT.

- 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 Saunders against the decision of Southend-on-Sea Borough Council.
 - The application Ref 20/00491/FUL, dated 18 December 2019, was refused by notice dated 8 June 2020.
 - The development proposed is described as the conversion of the existing 6 bed (Class C4) HMO to a 7 bed (sui Generis) HMO and to erect a single storey part side and rear extension to the existing 6 Bed (Class C4) HMO which will be the 7th Bedroom with ensuite.
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Application for costs

1. An application for costs was made by Mr Saunders against Southend-on-Sea Borough Council. This application will be the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for a single storey part side and rear extension to the existing 6 Bed (Class C4) HMO that will be the 7th. Bedroom with ensuite at 18 Kilworth Avenue, Southend-on-Sea, Essex, SS1 2DT in accordance with the terms of the application, Ref 20/00491/FUL, dated 18 December 2019, and the plans submitted with it, subject to the conditions listed in the schedule at the end of this letter.

Main Issue

3. I consider the main issue to be the effect of the proposed development on the living conditions of the residential occupiers of 16 and 20 Kilworth Avenue in terms of the extensions potential to appear overbearing resulting in an undue sense of enclosure and a loss of outlook and daylight to 20 Kilworth Avenue.

Reasons

4. The appeal property, 18 Kilworth Avenue, is two-storey, mid terrace with a single storey lean-to rear projection. Formerly a single dwelling house it has been converted into a House in Multiple Occupation (HMO).
5. The appellant proposes a single storey, part-side part-rear extension to make it a seven bed HMO. The roof of the extension, which would overall be about 2.9 meters high, would be flat set down into a shallow well. The roof would have

- sloping sides, such that the eaves height of the extension, parallel to the side boundaries, would be about 2.0 metres.
6. The proposed extension would be located some 0.2 meters from the common boundary to number 20 Kilworth Avenue and about 1.0 metre from that to number 16.
 7. The sloping sides of the proposed roof would result an eaves height similar to the height of a typical close-boarded rear garden boundary fence. Further, given the urban context here I am not persuaded that the gardens are especially small as suggested by the Council. Therefore, I do not consider, that the proposed extension would either appear so overbearing or result in such an undue sense of enclosure as to cause harm to the living conditions of the neighbouring occupiers at number 16 or 20.
 8. Further, given the limited eaves height of the proposed extension, the existing relationship of openings in number 20 to the appeal property and as the new roof would slope away from the boundary line I am not persuaded that it would impact in any significant way on either daylight or outlook for the occupiers of number 20.
 9. I therefore conclude in respect of the main issue that the proposed development would not cause material harm to the living conditions of neighbouring residential occupiers, in terms of its potential to appear overbearing, result in an undue sense of enclosure, cause a loss of outlook or daylight.
 10. The development would therefore accord with the objectives of the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Borough Council Local Development Framework–Development Plan Document 1-Core Strategy and Policies DM1 and DM3 (as amended by Technical Housing Standards Policy Transitional Statement (2015) of the Southend-on-Sea Borough Council Local Development Framework - Development Management Document (Adopted July 2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009) as they seek to protect residential amenity.

Conditions

11. The conditions follow from those suggested by the Council. To ensure a high quality development, I have included a condition about building materials.
12. To protect neighbours' living conditions, I shall restrict the use of the flat roof to maintenance or emergency purposes only, and in addition control on site demolition and construction works.
13. To ensure the provision of available and adequate cycle parking, refuse and recycling storage, I have included conditions about cycle storage and the provision of refuse and recycling storage.
14. In order to maintain acceptable living conditions for the occupiers of the property I shall control, by condition, the formation of additional bedrooms and limit the occupancy.

15. For the avoidance of doubt and in the interests of proper planning, I shall also impose a condition requiring the development to be carried out in accordance with the approved plans.

Conclusions

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Philip Willmer

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered 585-200 Rev.01, 585-201, 585-202 Rev.01 and 585-203 Rev.01.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Demolition and construction works shall take place only between hours of 8 am and 6pm on weekdays and between 8 am and 1pm on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
- 6) Before the first occupation of the extension hereby permitted the refuse, recycling and secure covered bicycle storage facilities for its occupiers shall be provided and made available for use in accordance with the approved details and shall be permanently retained thereafter for that use.
- 7) The building shall not at any time be altered to enable more than seven bedrooms and shall not be occupied by more than eleven people at any one time.