



Appeal Decision

Site Visit made on 21 June 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2021

Appeal A Ref: APP/W1525/W/21/3271316

5 Victoria Road, Chelmsford, CM1 1NZ

- 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 Mark Farrier (Blackstock Group) against the decision of Chelmsford City Council.
 - The application Ref 20/01534/FUL, dated 28 September 2020, was refused by notice dated 15 January 2021.
 - The development proposed is described as "change of use of to 2 No. apartments; 1 No. 1 Bed/1person and 1 No. 2 Bed/2 person units under 'C3 Dwellinghouses'."
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Appeal B Ref: APP/W1525/W/21/3274325

5 Victoria Road, Chelmsford, CM1 1NZ

- 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 Mark Farrier (Blackstock Group) against the decision of Chelmsford City Council.
 - The application Ref 21/00512/FUL, dated 10 March 2021, was refused by notice dated 30 April 2021.
The development proposed is described as "change of use to 2 No. apartments; 1 No. 1 Bed/1 person and 1 No. 1 Bed/2 person units under 'C3 Dwellinghouses'."
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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. There are two appeals at this site, both proposing conversion of the commercial premises into two apartments. I have dealt with each appeal on its own merits but given the overall similarities of the schemes I have dealt with them in a single decision letter.
 4. The Council referred to the matter of outlook from the proposed apartments in their reason for refusal for Appeal B only. However, given the similarities between the proposals I invited comments from the appellants specifically on this point with regards to Appeal A as well.
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5. I have amended the description of each appeal to omit wording that does not describe the proposed developments.

Main Issue

6. The main issue in the determination of both appeals is whether the proposed development would provide acceptable living conditions for future occupiers.

Reasons

7. The use of obscured glass to the front windows and doors of the apartments in both appeals would somewhat diminish the natural light to their interiors. In addition, the appeal site is a ground floor unit to the north of a six-storey building, and this relationship would further limit the natural light received by the apartments.
8. The living and dining area to apartment A in both cases would rely on light to a single window in the north elevation, resulting in poor levels of natural light due to its irregular footprint. The kitchen to this unit would in both cases be narrow and receive limited natural light due to the siting of a cupboard immediately inside the front entrance and the distance away from the narrow expanse of glazing to the door and front window, which as noted above would in any case provide limited natural light to the interior of the apartment.
9. Apartment B in both appeals would have a single living, dining and kitchen area. This area would be some distance from any window and would receive little natural light.
10. The daylight assessment provided with the appeals concludes that the light levels within the apartments would be acceptable. However, it concludes that the living areas to apartment A would only just meet the minimum Average Daylight Factor. In addition, the combined living area to apartment B exceeds the minimum, but it is not clear whether the measurement for this room allows for the significant drop off in light towards the rear of the unit, which I observed during my site visit.
11. In both appeals, therefore, it is not demonstrated that the living areas to the apartments would receive sufficient natural light. In the absence of evidence to demonstrate that the levels of natural light to the apartments would be acceptable, it is probable that future occupiers would have to rely on artificial lighting. Such dependence would result in gloomy and unpleasant living conditions for future occupiers.
12. The obscured glazing would also substantially limit outlook to the front of the apartments. The apartments would face the railway embankment at the rear. The appellant attests that they have maintained the land to the rear of the of the appeal site, but the embankment is railway land, and therefore ultimately not under the appellants' control. Due to the steepness, height and proximity of the embankment the outlook from the rear windows to the apartments would be constrained and of limited value to occupiers. Appendix B of the Chelmsford Local Plan 2020 (the LP) recognises that a pleasant outlook can compensate for a lack of direct sunlight, but the proposed apartments would fail to achieve this.
13. My attention has been drawn to nearby terraces of houses where there is no separation between the front elevations and the pavement. While such

relationships are to be found in the area, the identified properties all appear to be of an age predating current standards for new housing development. The weight attached to these earlier developments in determining these appeals is therefore limited.

14. With regards to the provision of outdoor amenity space, Appendix B seeks a minimum provision of 10 square metres of private amenity space per apartment. However, it does allow for exceptions on physically constrained sites where development is desirable in the wider public interest. As each proposal is for the conversion of a vacant commercial unit to two small apartments in a town centre location close to several outdoor spaces, in this instance an exception to the standard would be justified.
15. In both cases the appeal proposals have failed to demonstrate that the proposed apartments would provide acceptable internal levels of natural light. In addition, the apartments would offer constrained outlook from the windows which would fail to compensate for the lack of direct sunlight. The proposed developments would therefore fail to provide acceptable living conditions for future occupiers, contrary to the requirements of Policy DM26 of the LP. This policy requires, amongst other criteria, that new dwellings achieve a suitable living environment for residential occupiers.

Planning Balance

16. Each development would result in the creation of two new dwellings, supporting the Government's objective of significantly boosting the supply of homes. These apartments would be in an accessible town centre location, and either development would bring into use a commercial unit that has been largely vacant since construction of this building was completed. These benefits attract moderate weight, but the accommodation provided would in either case fail to provide acceptable living conditions for future occupiers. The benefits of the proposed developments would not, in either appeal, outweigh that harm. There is therefore no reason to determine these appeals other than in accordance with the development plan.

Other Matters

17. In both appeals the appellant has provided a financial payment under the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. Were I minded to allow either appeal it would have been necessary for me, as the competent authority, to determine whether this would adequately address the impact of the development in question. As I am dismissing the appeals for other reasons, however, it is not necessary to consider this matter further.

Conclusion

18. For the reasons set out above, both Appeal A and Appeal B fail.

M Chalk

INSPECTOR