

# Appeal Decision

Site visit made on 7 September 2022

**by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

**An Inspector appointed by the Secretary of State**

**Decision Date: 24th October 2022**

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**Appeal Ref: APP/M1595/D/22/3295077**

**58 Brentwood Road, Chadwell St Mary, RM16 4JP**

- 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 Sherriff against the decision of Thurrock Council.
  - The application, ref. 21/01987/FUL, dated 18 November 2021, was refused by notice dated 21 January 2022.
  - The development proposed is described as a 1 bedroom annexe.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Whilst the application form states that the proposed building would be a 1 bedroomed annexe, the appeal documents (as well as the Council's description) state that the annexe is to be utilised in association with a dwelling house that is currently utilised as a small House of Multiple Occupation (HMO) where care is provided. I have also assessed the appeal on the same basis.
3. The elevation drawings of the proposed annexe submitted with the appeal documents do not show the full extent of the side elevations, with these elevations drawn as hidden behind the boundary fence. Whilst it is possible to tell the placement and width of the windows as the tops are visible, the length of the windows is not visible. Despite this, I have enough information from comparisons with the floor plan and elevations to make a judgement.
4. The appellant's Statement of Case (SoC) lists a number of options and amendments to the scheme in order to address the Council's concerns and has sought that I consider these options as part of the appeal. It is unclear which option the appellant seeks that I am to make my decision upon, however lists a number of elements such as altering the footprint, and adding roof lights. In general the appeal process is not the appropriate place to evolve the scheme; and the scheme that is considered at appeal ought to be the same one that was considered by the Council. There is no evidence that these suggestions formed part of the scheme that the Council made its

decision on, and whilst I note email correspondence<sup>1</sup> where these suggestions are discussed with the Planning Officer, these alterations do not appear to have been submitted as formalised amendments, or that these options have been subject to any form of consultation. In accordance with the 'Wheatcroft Principles',<sup>2</sup> it would not be appropriate to consider these additional options within my decision as the acceptance of such would deprive those who should have been consulted on the changed development or of the opportunity of such consultation. As such, I will base my decision solely upon the plans that were assessed by the Council during the original planning determination.

## **Main issues**

5. The main issues are:

- The effect of the proposed development on the character and appearance of the host building and the locality;
- The effect of the proposed development upon the living conditions of future occupiers with regards to natural light and ventilation; and
- Whether the proposed development has demonstrated sufficient parking and layout in accordance with development plan policies.

## **Reasons**

### *Character and appearance*

6. The appeal site is located along Brentwood Road and is situated within the garden to No.58, which is an end terraced dwelling in a row of 4 dwellings. The dwellings appear to have been constructed in the early twentieth century and have similar design features and long narrow gardens. To the opposite end of the terrace, there is an informal and partly overgrown access track which provides vehicular access to the rear of Nos. 52-58 (even). The rear gardens as well as the rear laneway are vegetated with some of the four dwellings having small outbuildings, however the rear gardens are largely open and undeveloped. Whilst the group of 4 terraced dwellings are constructed close to and fronting the road edge, these are the only dwellings on this side of the road with the immediate surrounds of the group of dwellings containing a mid-twentieth century Radburn type estate development which consists of large greenspaces fronting the road with groups of terraces fronting away from the road towards greenspace and rather disconnected from the group of 4 dwellings.
7. The Thurrock Core Strategy and Policies for Management of Development (CSPMD) Saved Policy PMD2 and Policy CSTP22 are design led policies which have a number of design criteria to adhere to such as being high quality, renewable and low emission technology, respond positively to the character of the area, promote continuity, amongst others. The Thurrock Design Guide Residential Alterations and Extensions Supplementary Planning Document (SPD) supports the design policies of the CSPMD and provides further

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<sup>1</sup> Email correspondence between Michael Sherriff (applicant) and Kasey-Rae Passfield (Thurrock Council), dated 7 February 2022 and 16 February 2022.

<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

guidance on outbuildings, their design and placement. In particular the SPD states that the use of outbuildings where it is intended to be used as incidental habitable space (for example as a home office or family room) has a suitable structural design and provides an appropriate level of thermal insulation, damp proofing, daylighting, ventilation and fire proofing, amongst others.

8. I can appreciate attempts to lower the scale of the building via the flat low roof which projects above the boundary fence, however the length of the building is very long, and would be longer than the depth of the main dwelling and take almost half of the garden space. The building would be like nothing else in the locality, with surrounding garden sheds being modest in size with surrounding properties maintaining large areas of open and undeveloped garden. The proposed building would therefore not have a subservient scale and would have a domineering appearance to the rear garden which would substantially increase the amount of built form to this locality.
9. The Council also has concerns as to whether the proposed building is actually ancillary as the building could be accessed independently via the rear laneway that could sever both uses and therefore the annexe would not be ancillary (however it is acknowledged that the plans indicate that there is no entry from the rear of the building), only a window. Ancillary uses are not distinguished by scale, although that may be relevant and there should be some functional relationship between the ancillary use and the primary use. That functional relationship should be one that is normally found; it is not based on the personal choice of the person carrying out both activities together. Furthermore, even if the accommodation provided facilities for independent day-to-day living it would not necessarily become a separate planning unit from the main dwelling; it would be a matter of fact and degree.
10. If taking the case of an annexe which is for the care needs of the occupants of the main dwelling, this would normally be regarded as part and parcel of the main dwellinghouse use. With regards to severance, the layout provides the majority of facilities that are required for an independent dwelling. However, the proposal is presented as an annexe, rather than the creation of a separate dwelling.
11. Whilst in this particular case there appears to be some reliance and relationship to the host building between the current residents and their living situation and care needs, the assessment of appropriateness against the Development Plan policies is not limited to the current residents and that this would not prevent future occupants from attempting to create an additional planning unit by the severance of the outbuilding from the main dwelling. The presence of the rear access, together with the facilities provided by the building creates a situation that would mean that the annexe has independence and therefore has a weak relationship and functional dependency with the host building.
12. Taking the above into account and in conclusion of this matter, the proposed annexe would be a dominant and incongruous development of the rear garden which would not reinforce the positive characteristics of character, appearance and local distinctiveness. Additionally, the reliance of the annexe

on the host building is relatively weak, furthering the inappropriateness of this development. The proposed scheme would therefore be contrary to CSPMD Saved Policies PMD2 and Policy CSTEP22, which is supported by the SPD, which have been described previously.

### *Living Conditions*

13. The main concerns regarding living conditions relate to access to natural light and ventilation to the kitchen area. The floor plans and part elevations show that the building would be open plan with a kitchen to the middle, and a bedroom and open plan living area at each end. The main source of light for the kitchen being from the window at the end of the lounge room wall, meaning that the kitchen would not receive much natural light or ventilation. I agree with the appellant that this matter could be resolved quite easily via the installation of a roof light, as it would not be ideal to install a window to the side wall given the proximity of the boundary fence.
14. In conclusion of this matter, whilst I agree with the Council that the submitted plans show that the proposed scheme would fail CSPMD Policy PMD1 as it would fail to ensure suitable living conditions for future occupiers of the dwelling by reason of access to natural light and ventilation; this situation would be resolvable by an appropriately worded condition.

### *Parking and Layout*

15. It is proposed to facilitate parking of the annexe from a vehicle parked at the rear of the site, accessed from the rear accessway that leads to the side of No.52. Due to the design of the annexe, (which only has a window on the rear elevation); the occupier would be required to park their vehicle to the rear, then walk back down the unlit and unmade access past No.52 and past the row of terraces to enter through the main dwelling, walk through this dwelling into the garden where they would gain access to the annexe via the front door. This would not be a safe and convenient access for the annexe, particularly at night time and particularly given the current unmade state of the access route to the rear of the terraces. Whilst I acknowledge comments in the appellant's SoC that they themselves drive a vehicle on the access and I agree that it is wide enough to accommodate vehicles, it is currently in an overgrown and unmade condition; and the application documents make no commentary regarding the upgrading of the access. Furthermore, the access is not within the red line boundary of the application, and therefore there is no ability to control elements by condition such as lighting or upgrading.
16. It is therefore likely that the occupier would choose the most convenient route which would be to park their vehicle along Brentwood Road, where there is minimal provision, or to the front of the dwelling where there appears to have been stones laid, but would be inappropriate given the proximity of the zebra crossing.
17. Taken as a whole, it has not been demonstrated that the proposal has appropriate parking provision or layout and would therefore pose a risk to the safety of pedestrians and highway safety. In conclusion of this matter, the proposed scheme would be contrary to CSPMD Saved Policies PMD2 and PMD8 which seek that development have appropriate and safe access for all users.

## **Other Matters**

18. I acknowledge and appreciate the comments from the appellant in their Statement of Case regarding the personal care needs of the occupants, their specific situation and justifications for the proposed annexe which I have treated as a material consideration to this proposal. Having reviewed these personal circumstances, I feel that there may be other ways of accommodating the occupant's needs which may be more compliant with the policies of the development plan. As such the personal circumstances of the current use in this case do not indicate that the decision should not be made in accordance with the policies of the development plan.

## **Conclusion**

19. For the reasons given above, I conclude that the appeal be dismissed.

*J Somers*

INSPECTOR