
Appeal Decision

Site visit made on 5 December 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2023

Appeal Ref: APP/P1560/W/22/3300041

3 Tower Street, Brightlingsea, Colchester, CO7 0AL

- 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 Miss Cheryl Sutton against the decision of Tendring District Council.
 - The application Ref. 21/02074/FUL dated 5 December 2021, was refused by notice dated 11 February 2022.
 - The development proposed is demolition of existing outbuilding to the rear of 3 Tower Street, Brightlingsea comprised of two storage garages within one single unit and the erection of a 1 bedroom compact sustainable dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed development on the character of the area, ii) the acceptability of the proposed dwelling in terms of its provision of accommodation, private open space and facilities for cycle and bin storage.

Reasons

The site and its surroundings

3. The existing outbuilding is situated to the rear of No.3 Tower Street, although it fronts onto, and takes access from, Tower Cut to the north. The age of the outbuilding is in the region of 125 years old, of soft red brick construction under a slate roof, which has historically been covered with a bitumen protective covering. The current condition of the outbuilding is one of disrepair, with cracking to the external walls and roof timbers which have severely deteriorated over time. The total footprint of the outbuilding is 50m². The rear wall of the building sits on the boundary line between 3 Tower Street and the neighbouring garden of 5 Tower Street. Due to the current dilapidated condition and the floor level being significantly lower than that of Tower Cut, it does not function as garaging, and is currently used for storage for 3 Tower Street.
4. Tower Street runs south off High Street, and Tower Cut runs east to Lime Street behind a block of development comprising frontage development to High Street and No.1 Tower Street and part of Jacobs Court. It is only the flatted development of Nos. 9 to 14 Jacobs Court that fronts onto Tower Cut. There

are also a pair of houses between Jacobs Court and Lime Street that appear to be primarily accessed from High Street.

5. The Tower Steet properties, from No. 5 southwards, have long back gardens running back to Lime Street, with the majority having outbuildings accessed from Lime Street. Tower Cut is a narrow poorly surfaced street, whilst Lime Street is similarly narrow and poorly surfaced, running from High Street behind the gardens of the Tower Street houses. Beyond Lime Street, in the vicinity of Tower Cut, the land is mainly open and runs down eventually to Brightlingsea Creek.
6. The existing outbuilding has 2 interconnecting but separate elements. They are both single storey with pitched roofs, but the western element has a higher ridgeline at 3.33m, compared with 2.86m for the eastern element. The appeal proposal takes the footprint of the outbuildings, and adds a flat roof on the eastern end at a level approximately at the height of the existing ridge. On the western part there is proposed to be a lower forward gable mimicking the existing building, whilst set back to an extent that is not annotated on the plans, but is about 1.8m from the front elevation, is a 2 storey element. This is set under a gabled roof with a ridge height of 5.36m.

The effect of the proposed development on the character of the area

7. For the appellant it is explained that the design has been driven by considerations relating to the existing outbuilding's height and footprint. The footprint of the proposed dwelling does not exceed the curtilage & footprint of the existing outbuilding of 9.8m x 5.4m. Seventy-five percent of the proposed dwelling does not exceed the existing ridge height of 4m, the exception being the ridge increase on the south section of the dwelling. The variation of roof type and height has also been designed to reduce the mass of the building. Careful consideration has been given not to obstruct views of any adjacent neighbouring property, in particular the residents of Jacobs Court. The appearance relating to glazing retains the opening facing Tower Cut as the existing outbuilding's sliding door. This is the only glazed section on this façade, to provide privacy to neighbouring properties. The overriding nature of the appearance is to replicate an outbuilding/barn structure with minimal glazing.
8. Reference is also made to Brightlingsea being an historic fishing and boat building town. The materials, black timber weatherboard below slate pitched roofs and flat roof, have certainly been historically associated with fishing, boatyards and barns and the like. In my judgement, it is not the references made by the council to the style and character of Tower Street that are important: the separation down Tower Cut is sufficient to permit a change in scale, form and materials to be used in a successful design. But such approach would have to pay particular attention to neighbourliness with the Jacobs Court development. The appellant's statement of case shows that this has been in the designer's mind.
9. In my opinion the existing outbuildings sit well with the neighbours across the narrow road, but the proposed dwelling would fail to do so. It is obvious that the small footprint of the outbuildings has imposed great restraints on achieving the required accommodation. The result is that there is a poor relationship between the front lower gable and the raised first floor element that has no logical visual explanation other than that it is a consequence of

contriving sufficient floorspace. Nor does the part that is a flat roofed box, almost devoid of features, sit comfortably with the pitched roof parts. The apparently preferred black boarding exterior adds a sombre and unsatisfactory appearance. The documentation includes an illustration showing light coloured cladding, which to my eye is more pleasant, but does not overcome the appearance of the unsatisfactory massing of the principal elements of the design.

10. My conclusion on this issue is that the effect of the proposed development on the character of the area would be harmful, primarily from the point of view of the occupiers of the other properties in Tower Cut, but also users of Tower Cut and Lime Street, and from the rear outlook of the houses in Tower Street. This should not be taken as meaning that design that breaks away from the current style and form in the area is bound to be unacceptable, but in this case an interesting and coherent design giving visual delight has not been achieved.

The acceptability of the proposed dwelling in terms of its provision of accommodation, private open space and facilities for cycle and bin storage

11. Leaving aside the matters of cycle and bin storage, the council's criticism primarily relates to the extent to which private open amenity space is provided. What is proposed is an open topped area measuring 2.28m by 2.63m (6m² in area), surrounded by walls 2.8m high (this figure derived by scaling from drawing No.2111-3). The space would have a view of the sky and could be attractively adorned with potted plants and ornaments, but it would not provide the normal characteristic of private outdoor space with an outlook. I fully see the argument that the appeal dwelling could be likened to a dwelling in a flatted development which would be policy compliant by way of a 5m² balcony: but a balcony would not function as intended if it were closely surrounded by walls preventing a view.
12. The appellant also argues for this element in the following way: *"In its closed form it lifts the internal environment and brings light into the layout that a balcony can never do. In its open form the boundary between amenity space goes and improves the quality of the internal space becoming cohesive to the rest of the dwelling. By design this format is secure. It is ground floor outside space that is enclosed and can be left open or unlocked by design to the extent that (weather dependant) is fully usable which itself makes it unique and personal to this proposal"*. I can see a degree of rationale in this, but it also points to the fact that the limitations provided by the highly constrained site have resulted in a distinct lack of windows to much of the ground floor, although a roof light is proposed in the flat roof. Potentially the entrance doors onto Tower Cut could be glazed, providing some much needed connection with the outside world, but that is not part of the proposal. This would also raise the issue of privacy, as does the large glazed opening to the open plan lounge.
13. Turning to the lack of cycle and bin storage, whilst not picked up in the submitted scheme, there is a solution to both suggested in the appeal statement. I am content to make no further comment on this aspect of the issue.

Conclusions

14. For the reasons set out above I conclude that the appeal proposal would have a harmful effect on the character of the area and that the proposed dwelling

would not be acceptable in terms of the lack of satisfactory provision of private open space. It would therefore fail to meet the high standards of urban and architectural design which responds positively to local character and context as required by the councils development plan policies, and for that reason the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR