



Appeal Decision

Site visit made on 26 September 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Appeal Ref: APP/M1595/W/23/3315321

45 Longhouse Road, Chadwell St Mary, Thurrock, RM16 4RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Rachel Padgett against Thurrock Council.
 - The application Ref 22/00243/CV dated 23 February 2022 was refused by notice dated 16 September 2022.
 - The application sought planning permission for conversion of garage into a self contained annexe with extensions to garage. A drop kerb proposed to front to accommodate new driveway without complying with a condition attached to planning permission Ref 17/01064/FUL, dated 17 November 2017.
 - The condition in dispute is No 4 which states that: The annexe hereby permitted, shall be used for purposes ancillary to the main residential dwelling known as 45 Longhouse Road. The annexe shall remain within the same planning unit and shall not be subdivided physically with fences, walls or other means of enclosure. Under no circumstances shall any part of the development hereby permitted be used as a separate unit of residential accommodation separate from the planning unit of 45 Longhouse Road.
 - The reason given for the condition is: To avoid the undesirable creation of two separate dwelling units on the site in the interests of privacy and amenity, parking standards and amenity space in accordance with Policies PMD1, PMD2 and PMD8 of the adopted Thurrock LDF Core Strategy and Policies for the Management of Development Focused Review 2015
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. A single storey residential annexe to the rear of 45 Longhouse Road (the host dwelling) was created with the benefit of planning permission (Council Ref. 17/01064/FUL). The appellant is seeking to remove a condition of that permission that prevents the annexe (the appeal building) from being used as a distinct unit of residential accommodation separate from the planning unit of the host dwelling. The removal of the condition would allow the accommodation to be lived in as a separate unit of residential accommodation.
3. The main issues are the effect that the removal of condition 4 would have on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of the host dwelling and the occupiers of the appeal building; and

- highway safety, with regard to the adequacy of the parking provision, and the potential for the displacement of vehicles on to the public highway.

Reasons

Character and appearance

4. The appeal site comprises an end of terrace house with a single storey building forming the annexe located within the rear garden. The area is predominately residential with terraced two storey development being common. A service road runs to the rear of the terrace, and is accessed via gates on the site's rear boundary. The front of the site is hardstanding and provides off street parking capacity for 3 cars accessed via a single width access.
5. The creation of an independent dwelling would necessitate a separation of the garden area in order to provide a distinct amenity space for each property. Whilst not shown on the submitted drawings, the appellant has indicated that a fence or glazed screen would be used to subdivide the garden. Based on the available evidence and my site visit observations, subdivided rear gardens do not appear to be a characteristic of the immediate area, and are not found within the majority of properties on this side of Longhouse Road. It seems to me that any subdivision of the garden would lead to both the appeal building and host dwelling having noticeably and uncharacteristically smaller gardens than neighbouring properties.
6. Regardless of whether the appeal building would have its own independent access, as a result of the subdivision of the site and the future occupiers' additional domestic paraphernalia, it would be notable as an independent dwelling, rather than an annexe. This would introduce a discordant form of development into an area where existing dwellings front the street which would fail to visibly integrate with the existing pattern of development.
7. Therefore, the removal of the condition would conflict with policies PMD2 and CSTP22 of the Thurrock Core Strategy and Policies for Management of Development (2015) (CSPMD) which seek good design which optimises the potential of the site. Equally, the proposal would not comply with the principles of the National Planning Policy Framework (2023) (Framework) that seek good design sympathetic to the local area.
8. The reason for refusal also refers to Policy PMD1 of the CSPMD which relates to future and neighbouring occupiers' living conditions and not to urban design principles. Therefore, I have not referred to this policy above.

Living conditions

- Future occupiers

9. The submitted drawings indicate that one of the appeal building's windows facing the rear of the host dwelling would serve a living/kitchen/dining room. The host dwelling's upper floor windows allow direct, uninterrupted views from close proximity into this window. As a result, future occupiers would experience a level of overlooking which would be harmful to their privacy when using this room.

10. A sketched drawing has been submitted indicating a very approximate position for the subdivision of the garden. However, as I do not have scaled proposed plans showing the exact size and location of the screening, it is not possible to gauge whether this would improve the living conditions for future occupiers. For instance, were the screening to be located close to the annexe's windows, this may have an unacceptably harmful impact on future occupiers' outlook as a result of unreasonable visual intrusion. Consequently, such a condition would not be appropriate in this instance.
11. The appellant suggests that the small area between the rear of the outbuilding and the rear gate would be used as an external amenity area. Whilst this area is not large, in the absence of specific amenity space standards for the proposal, I find that the size of the amenity space would not be unreasonably small or impractical for use by the future occupiers.
 - *Existing occupiers of the host building*
12. The submitted drawings indicate that residents of the appeal building would access it from the host dwelling's front access gate and via its rear garden. They would pass within very close proximity to the rear ground floor windows of the host dwelling. No screening is present to restrict views from the access. As a result, anyone entering the appeal building would have direct views into these residential windows from close proximity. This would create an unacceptable loss of privacy for the neighbouring occupiers.
13. Again, the appellant has indicated that a fence or glazed screen would be used to subdivide the garden. For the reasons set out above, as I do not have proposed plans showing the size and location of the screening, it is not possible to gauge whether this would have a harmful impact on the living conditions of the existing occupiers of the host dwelling. Consequently, such a condition would not be appropriate in this instance.
14. Were the rear access gate to be used as the primary access to the appeal building, this would lead to additional comings and goings from the rear of the appeal site. The rear service road is used for access to the gardens of neighbouring properties on Longhouse Road, including, at a number of properties, for car parking within garages located at the rear of gardens. Given the minimal number of likely comings and goings across a day associated with a one bedroom dwelling, this is unlikely to cause significant noise or disturbance to the occupiers of neighbouring residential properties.
15. However, I have found that the removal of the condition would cause harm to the living conditions of the occupiers of the host dwelling and future occupiers of the appeal building, with regard to privacy. It would therefore be contrary to Policy PMD1 of the CSPMD. This policy requires development to protect the living conditions of occupiers of neighbouring adjoining properties and requires development to contribute positively to the character of the area.
16. As the proposal would not provide a high standard of amenity for existing and future users it would also fail to comply with paragraph 130 f) of the Framework.
17. The reason for refusal also refers to Policies PMD2 and CSTP22 of the CSPMD which relate to general design principles and not to neighbouring occupiers' living conditions. Therefore, I have not referred to these policies above.

Highway safety

18. The site would continue to provide three parking spaces, as approved under permission 17/01064/FUL. Two would be for the host dwelling and one for the proposed separate residential unit. The Council has confirmed that the overall number of parking spaces are considered adequate in the circumstances, and based on the evidence before me I am satisfied that this quantum of parking spaces is sufficient.
19. There is insufficient space for off-street parking to the rear of the site as the appellant has indicated that this area would be used as amenity space for future occupiers. Were future occupiers to use the rear service road for car parking this would block the use of the road for other residents.
20. However, at the time of my site visit, direct access was available from the parking area at the front of the host dwelling to the appeal building via the host dwelling's front access gate. The submitted plans also indicate that a footpath would link the entrance of the appeal building to the front gate. Notwithstanding the harm that I have identified to the neighbouring occupiers living conditions, this access provides a short, practical route from the parking area to the rear outbuilding.
21. Providing that direct access from the front of the appeal site is maintained, I consider that the off-street parking area to the front of the appeal site is likely to be an attractive and convenient location for future occupiers to park their vehicles. Consequently, future occupiers are unlikely to seek additional off-street parking spaces elsewhere within the area, including within the rear service road.
22. As such, the removal of the condition would not lead to the displacement of vehicles onto the public highway. Consequently, the proposal would comply with policies PMD2, PMD8 and PMD9 of the CSPMD which seek to ensure easy and safe access, whilst complying with parking standards.

Other Matters

23. The Council have referenced the Thurrock Design Guide Residential Alterations and Extensions Supplementary Planning Document (2019), however this document is relevant to the provision of ancillary outbuildings. The appeal proposal relates to the creation of a separate dwelling and therefore I have given this document limited weight, such that it has not altered my overall decision.
24. The proposal is within the zone of influence (ZoI) of one or more European designated sites covered by the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). In combination with other development in Chadwell St Mary and elsewhere, an additional dwelling would have a likely significant effect on the sensitive interest features of the Thames Estuary and Marshes Special Protection Area (SPA) through increased recreational pressures. Local planning authorities in Essex have developed the RAMS to deliver the necessary mitigation to address such impacts which is to be funded through a tariff.
25. Had I found the proposal to be otherwise acceptable, the Habitats Regulations impose a duty to consider within the framework of an Appropriate Assessment whether it would have a significant effect on the conservation objectives of the

RAMS either alone, or in combination with other plans and projects. As part of this, I would need to consider the likely effectiveness of mitigation proposed. The Council advises that the appellant had elected to pay the RAMS mitigation in advance of the planning application decision being issued so there would be no requirement to provide a Legal Agreement for this matter should permission be granted. Regardless of this factor, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.

26. In terms of the scheme's benefits, the removal of the condition would result in a single additional residential unit in a location with good access to surrounding facilities and services. The Framework supports the development of under-utilised land, outlines that small and medium sized sites can make an important contribution to meeting housing requirements and that planning decisions should promote an effective use of land. The Framework also encourages the sub-division of large sites where this could help to speed up the delivery of homes. The proposal development would optimise the potential of the property plus ensure the land is put into effective use. The principle of a new residential dwelling in this location is acceptable. The provision of one windfall unit would increase the site's density, making a more efficient use of the site and a modest contribution to the Borough-wide housing supply. This in turn would make a small contribution towards maintaining the vitality of existing local services and amenities. These are material considerations that weigh in favour of the appeal scheme, and whilst I afford them some weight, these matters do not outweigh the harm I have previously identified.
27. The annexe no longer depends on the main dwelling as it now has its own water, gas and electricity supply. Be that as it may, this is a neutral factor and does not weigh in favour of the proposal. Nor is there substantive evidence before me to indicate that the appeal site, as existing, has particular potential to attract crime.
28. My attention has been drawn to examples of planning permissions for side extensions, outbuildings and annexes in the local area. However, I have not been provided with any other details such as submitted drawings or officer reports, to enable me to determine whether they are directly comparable to the appeal proposal. In any event, each case must be considered on its own merits.
29. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this Decision.

Conclusion

30. I conclude that condition No 4 is necessary and reasonable, and it meets the other four tests set out in paragraph 56 of the Framework about which there is no dispute in this case. The removal of condition No 4 would have a harmful impact on the character and appearance of the area and the living conditions of the occupiers of the host dwelling and future occupiers of the appeal building in respect of overlooking and privacy.
31. Accordingly, the proposal would conflict with Policies PMD1, PMD2 and CSTP22 of the CSPMD policies which seek the protection of living conditions of occupiers of neighbouring properties and require development to contribute

positively to the character of the area. The proposal would also be contrary to paragraph 130 f) of the Framework in respect of achieving well-designed places by supporting the creation of places which promote health and well-being, with a high standard of amenity for existing users.

32. For the reasons given above, having had regard to all relevant material considerations, including the Framework, the appeal is dismissed.

B Pattison

INSPECTOR