



Appeal Decision

Site visit made on 30 May 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal Ref: APP/M1520/W/23/3326852

376 London Road, South Benfleet, Benfleet SS7 1AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Beckford of South West Construct against the decision of Castle Point Borough Council.
 - The application Ref is 22/0911/FUL.
 - The development proposed is loft conversion with front dormers, part single story / part two story rear extension and convert dwelling into three self-contained flats (amended proposal).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has confirmed his name and company details are those on the appeal form. I have used these details in the banner heading above.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of future occupiers of Flats A and B with respect to privacy, outlook, light, and health and wellbeing.

Reasons

4. The glazed door and window serving the lounge kitchen diner of Flat B would face onto the private communal space. It is to be expected that occupiers of the other flats would use the communal space for extended periods of time. This would result in there being a lack of privacy for future occupiers of Flat B as other residents using the garden would have clear views into the glazed openings which serve the main habitable space in the proposed flat.
5. The proposed floorplan indicates there would be a 1m buffer separating these openings from the wider communal area, and this would be bounded by railings. These would be relatively low in height and would not make any meaningful contribution to providing privacy to occupiers within the room. Permanent measures to address this, such as obscure glazing, or a more substantial boundary treatment would result in there being an unacceptable outlook from Flat B. Furthermore, the lack of privacy would not be ameliorated by the provision of privacy measures such as blinds as the normal use of the amenity space by other occupiers would still be readily discernible. The proposed layout would therefore result in unacceptable levels of privacy for future occupiers of Flat B.

6. Access to the rear of the property is shown as being provided to both sides of the building. This would be narrow to the eastern side of the building and would result in users passing in proximity to windows in the side elevation. However, any use would be brief, and would only be by occupiers of the proposed flats. This is not significantly different to developments where windows directly abut the pavement or other public communal spaces. Furthermore, access would also be provided along the western elevation, which would be wider and would pass the front doors to Flats B and C. The eastern access therefore would not necessarily be used every time an occupier wished to access the bike store or travel directly to or from the rear garden.
7. The side windows serving the kitchen and bedroom two of Flat A would be largely forward of the adjacent property. As a result, an appropriate level of light and outlook would be provided. There is no substantive evidence before me as to why there would be insufficient ventilation of these rooms. As such, I consider there would be an acceptable standard of amenity, and consequently health and wellbeing, for future occupiers of Flat A.
8. There would not be adequate privacy for future occupiers of Flat B which would result in unacceptable living conditions. The proposal would therefore be contrary to Castle Point Borough Council Local Plan adopted 17 November 1998 (LP) Policy EC2 which requires a high standard of design in relation to extensions and alterations to existing buildings. It would also be contrary to the advice in the Residential Design Guidance Supplementary Planning Document (adopted 2013) Section 5 which sets out that the design of development should ensure adequate privacy for future occupiers. It would also be contrary to the advice in paragraph 135 of the National Planning Policy Framework which requires a high standard of amenity for future users.

Other Matters

9. The appeal site is within the zone of influence for the Southend and Benfleet, and Blackwater habitats sites. These are subject to pressures from recreational disturbance. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the habitats sites and if any mitigation had been appropriately secured. However, it has not been necessary for me to pursue this issue as a finding that the proposal would not have an adverse effect on the integrity of the habitats sites, with or without any mitigation, would be at best a neutral matter.
10. I have considered the appeal before me only, and do not have full details of the previous proposals for the site. The appellant has directed me to other decisions of the Council. However, I do not have full details of these proposals before me. In any event, my assessment is based on the specific circumstances of this proposal on this site. The precise circumstances that result in the unacceptable harm I have found do not appear to be replicated in the other cases before me. Concerns regarding the service from the Council during the period for the determination of the application would not affect my assessment of the planning merits of this appeal.

Planning Balance and Conclusion

11. The Council acknowledges that it cannot demonstrate a five year supply of deliverable housing land. Paragraph 11d of the Framework is therefore engaged.
12. The proposed development would not provide adequate living conditions for future occupiers of proposed Flat B. I attach significant weight to this harm. LP Policy EC2 is consistent with the Framework in this respect in that a high standard of design is expected. The Framework is also clear that there should be a high standard of amenity for future users.
13. There would be a benefit from the addition of two dwellings in an area that is not able to demonstrate the requisite supply of housing land. There would also be economic benefits arising from the development during the construction and occupation stages. The site lies within an existing urban area where occupiers would have ready access to services and facilities. There would also be access to public transport. However, these benefits would be significantly and demonstrably outweighed by the adverse effects of the proposed development.
14. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the policies of the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR