



Appeal Decision

Site visit made on 3 April 2025

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2025

Appeal Ref: APP/M1520/W/24/3352134

175 - 179 Kiln Road, Benfleet, Essex SS7 1SJ

- 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 Motor Fuel Group Limited against the decision of Castle Point Borough Council.
 - The application ref is 24/0142/FUL.
 - The development proposed is described as 'erection of a new single storey side extension to the existing sales building to facilitate a 'Food to Go' concession'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs has been made by Motor Fuel Group Limited against Castle Point Borough Council. That application is the subject of a separate decision.

Preliminary Matter

3. During the course of the appeal a new National Planning Policy Framework has been published (the Framework). Since the policies that are the most relevant to this appeal have not been subject to any substantive changes I am satisfied that the parties have not been prejudiced by my taking it into account.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of occupants of no.187 Kiln Road, with particular regard to effects on outlook and natural lighting.

Reasons

5. Part RDG3 of the Council's Residential Design Guide 2013 (the RDG) sets out that development which would result in excessive overshadowing or dominance to any elevation of an adjoining property will be refused. The provisions of the Framework also include the need for decisions to make effective use of land, while ensuring healthy living conditions, among other things, as well as ensuring a high standard of amenity for existing users¹.
6. The appeal site contains an existing operational petrol station, including a single storey flat roof building. The site adjoins no.187 Kiln Road to the east, which is a

¹ Framework paragraphs 124 and 135

residential bungalow set back on its plot behind a landscaped front garden and parking area. The prevailing ground level of no.187 is also lower than that of the appeal site and the property is positioned close to the shared boundary. It is served by a number of windows and openings, including those in its south facing and west facing elevations, close to the appeal site.

7. The appellant does not dispute that those three windows closest to the appeal site serve a bedroom and a dining room in the side elevation, and a living room to the front of the property. The Council report that the effects on the bedroom window would likely be acceptable given that room is served by an additional north facing window. Similarly, the Council accept that while there would be some effects on the living room, these would not amount to a significant adverse effect. Accordingly, the concerns relate to the effects on the dining room and the front garden of the property.
8. The appellant has submitted a report which considers the effects of the proposal on the daylight and sunlight experienced by those nearest windows of no.187, having regard to tests acknowledged by BRE Guidance. The report demonstrates that while there would be a reduction in daylighting to the dining room window, given the extent of the loss, it would be unlikely to be noticeable and the vertical sky component test is passed. Based on the information before me, I have no strong reason to doubt that finding or reach a contrary view.
9. With regard to effects on sunlight, the report has not carried out the annual probable sunlight hours test on the dining room window, due to its orientation. However, based on the drawings and findings of my site visit the window could have an appropriate orientation for that test. As such the effects of the proposal on the sunlight received by the dining room window cannot be established.
10. In any event, and even if there was certainty regarding the effects on sunlight, the proposed extension would represent a significant and unrelieved bulk in very close proximity to the boundary with no.187. It would rise to a height of 3.75m above the ground level and, while not shown on the elevations, the ground level would already be above that of no.187, further increasing its excessive dominance over the property. In combination these factors would result in the proposal being a visually intrusive addition which would dominate the outlook from the dining room, as well as being prominent in outlook from other windows to a lesser degree. It would give rise to oppressive conditions within the dining room and would cause unacceptable harm to the living conditions experienced by the occupants of that property.
11. The garden to the front of no.187 is characterised by trees and mature shrubs, which enclose a grassed lawn and an area of parking close to the front of the house. The appellant asserts that adequate sunlight would continue to be reached to the garden area, and I have no strong reason to doubt that finding. Nonetheless the side elevation of the proposed extension would extend along much of the western boundary of the garden and would similarly be visually prominent and oppressive to users of that garden area. The existing boundary planting would help to soften those effects to some degree, but this would be unlikely to screen the effects of the development throughout the year and the front garden would be a notably less pleasant environment as a result of the proposed development.

12. While the appellant intends to introduce planting to the eastern side of the proposed development, the remaining gap to the boundary would be narrow and heavily enclosed. I am therefore not satisfied that meaningful landscaping could be provided and maintained to help reduce or mitigate for the effects of the proposal. While no.187 has a building line much further set back from the street than other buildings on this side of Kiln Road, this does not provide a justification for the harmful effects of the appeal scheme. The appellant also notes that the area of the appeal site could be used for other purposes such as parking and servicing. While this may be a legitimate fall back position, the effects of those uses are unlikely to be comparable, or worse than, the appeal scheme based on the information before me.
13. In combination, the effects of the proposed development on the dining room and front garden area of no.187 would amount to an unacceptable impact on the living conditions of its occupants. The proposal would be contrary to point RDG3 of the RDG and the Framework insofar as they relate to ensuring healthy living conditions, creating a high standard of amenity, including consideration of overshadowing and dominance.

Other Matters

14. The proposal would deliver a number of benefits. It would enhance the existing facility, providing roadside infrastructure and additional choice for consumers and motorists, including those of electric vehicles who may wish to stay on the site while their vehicles are charging. There could also be some economic benefits, including the creation of jobs associated with the extended facility, potentially suitable for local residents and those seeking flexible hours. The appellant refers to a general decline in petrol station facilities and increased car ownership, as well as a significant need to upgrade this site. However, there is not supporting information to give those factors any more than little weight. Together I give the benefits of the scheme moderate weight, given the scale of the proposal and based on the information on these matters before me. As such, they do not amount to material considerations to outweigh the harm which has been identified, which would be significant and long lasting.
15. I note there are additional concerns raised by the Council and by third parties. However, I have not considered those further since they would not alter the outcome of the appeal.

Conclusion

16. For the reasons given, and having regard to all matters raised, the appeal is dismissed.

C Shearing

INSPECTOR