



Appeal Decision

Site visit made on 24 April 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/M1520/D/25/3361051

5 Central Avenue, Benfleet, SS7 2NP

- 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 Miss Maria Freeman against the decision of Castle Point Borough Council.
 - The application Ref is 24/0652/FUL.
 - The development proposed is a single storey detached annexe in rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey detached annexe in rear garden at 5 Central Avenue, Benfleet, SS7 2NP in accordance with the terms of the application, Ref 24/0652/FUL subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans.
 - 3) No additional access, for either pedestrians or vehicles, shall at any time be formed from the access way to the east of No.5 onto Central Avenue.
 - 4) The annexe hereby permitted shall only be occupied by visitors to No.5 Central Avenue for purposes incidental to the residential use of that dwelling and for no other purpose including for rent or holiday purposes such as airbnb.

Main Issues

2. There are 2 matters dealt with on the refusal notice, the second of which refers to access along the driveway between the appeal property and No.7 Central Avenue. The appellant's appeal statement contradicts what is said in the application planning statement, asserting that the appeal property has no right of access on this driveway. Entries from the title register for No.493 Daws Heath Road and the appeal property are provided. Property rights are a matter of law, and are not for me, although it appears that there is a pedestrian gate at the side of the appeal property from this driveway, suggesting some right of way.
3. Therefore, the 2 issues for me to consider are: i) the effect of the scale and character of the appeal proposal on the immediate surroundings and pattern of

development; and ii) possible harm to neighbours arising from the appeal building if it became a separate dwelling.

Reasons

4. The appeal property is a semi-detached bungalow on the north side of Central Avenue. This residential area is occupied by detached and semi-detached houses and bungalows with rear gardens of varying sizes. The proposed annexe would be sited close to the rear of the garden of the appeal bungalow. There is a driveway on the eastern boundary of the site that provides access to a small group of garages.
5. The dimensions of the proposed annexe would be 8.5m on its front elevation, across the host garden and a depth of 7m on the west side, which faces the neighbours in Dawes Heath Road. The main eastern elevation would have a lesser depth of 5.25m, due to there being a small extension at the rear on the western side providing a bathroom. The flat roof would have a height of 2.85 from ground level where the land slopes down on the western side. The annex would be set in 1m from the adjoining neighbouring gardens.
6. The application states that the annexe would be used as accommodation for family members when visiting, due to the limited accommodation within the main dwelling. The annexe would have an open plan kitchen/living/dining area, a bedroom and a bathroom. The council questions why the building should have facilities that provide for independent living, although there is no objection to its use as an annexe incidental to the main dwelling. In the appellant's grounds of appeal, the agent states that discussion reveals that there is an expectation that in the longer term, the appellant's mother would occupy it as a granny annexe.
7. In relation to the first issue, whilst the annexe is rather large, this refusal reason does not relate to impact on neighbours' amenity, but to its size being out of keeping with the surroundings. There is no analysis in the delegated report on other curtilage buildings in the surrounds, but the appellant points out that there are a number of sizeable buildings in nearby gardens. The submitted extract from Google Earth appears to confirm this. I conclude on this issue that the proposed annexe would not be harmful, due to scale and character, to the immediate surroundings and pattern of development in the area.
8. A neighbour made an objection on the basis that the proposed building would be dominant and there would be an increase in noise and loss of privacy. I am satisfied with the judgement on these points made in the delegated report.
9. Turning to the second issue, the concern underlying this refusal reason is that a separate entry point could be made in future from the side access way making possible an entirely separate dwelling. I have noted above that I do not find clarity about whether or not the appellant has a right of way over this access. I can see that it would be undesirable for the proposed annexe to become a separate dwelling from No. 5, by opening up an additional entrance point to the annexe, because of implications for neighbours' amenity arising from greater activity, noise and disturbance in close proximity to adjacent private outdoor space.
10. These fears can be allayed by conditions that a) prevent the formation of a new access from the side access way, and b) preventing the annexe from any use as an independent dwelling. In light of the stance that the appellant has no right of way on the access, I cannot see that these conditions would be objectionable.

Conclusion

11. At paragraph 8 above I concluded that the proposed annex would not have a harmful effect on the immediate surroundings and pattern of development in the area. In respect of the second issue, I have found that the council's concerns could be dealt with by conditions. I will therefore allow the appeal.

Conditions

12. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested 2 conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance.

13. The suggested conditions are that the materials to be used in the construction of the external surfaces of the annexe shall match those used in the existing building, and that the development shall be carried out in accordance with the approved plans. However, the submitted elevations of the annexe show the use of rendering and cladding. There is no criticism of this part of the design in the delegated report, and I consider that these materials are suitable for a curtilage building. Therefore I consider that there is only a need for the second suggested condition. This is necessary for certainty and avoidance of doubt as to the development permitted. In paragraphs 9 and 10 I have referred to the need for 2 conditions. I will also impose these conditions for the reasons explained in those paragraphs.

Terrence Kemmann-Lane

INSPECTOR