



## Appeal Decision

Site visit made on 23 August 2016

**by Nicola Davies BA DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 September 2016**

**Appeal Ref: APP/V2255/W/16/3151076**

**16 Hawthorn Road, Sittingbourne, Kent ME10 1BB**

- 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 Mr Ken Crutchley on behalf of Hawthorn Convenience Store Ltd against the decision of Swale Borough Council.
- The application Ref 15/509793/FULL, dated 17 November 2015, was refused by notice dated 11 March 2016.
- The development proposed is a single storey bedsit for use by store manager for security of shop premises.

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues raised in respect of the appeal are the effect of the proposal on: -
  - (a) The living conditions of future and adjoining occupiers; and,
  - (b) The character and appearance of the area, particularly in relation to the flat roof design.

### Reasons

#### *Living conditions*

3. The appeal property comprises two independent commercial premises at the end of a row of terraced residential properties. The ground floor of the two-storey property is occupied by a convenience store and has residential accommodation above. The adjoining single storey side extension is occupied by a hairdressing salon. Both commercial units have access to the rear grassed garden area that is generally triangular in shape because of its skewed alignment with the adjacent highway. The appeal development would be constructed along the boundary with the adjoining occupiers at No. 18 Hawthorn Road and be linked to the single storey washroom to the rear of the convenience store.
4. As a consequence of the shape of the rear garden the proposed flat would have a kitchen/livingroom window and glazed entrance door and bedroom window with outlook onto the high side boundary fence less than a metre from these openings. This would provide the occupier with a very poor

outlook because of the close proximity of the boundary fence. In addition, a kitchen/livingroom window would be sited at an angle to the rear of the convenience store, however outlook would be, in part, onto the back of the building a relatively short distance away, as well as to the side passageway. Whilst some outlook would be achieved from this window it would be limited given the proximity of the rear of the convenience store. Outlook would be further restricted by the side boundary fence. Observation from this window would be of small area of pathway immediately to the rear of the commercial units. In my opinion the outlook, that is, views of the outside world from the kitchen/livingroom and bedroom of the proposed flat would be severely compromised and would provide an oppressive living environment for the occupiers of the flat harmful to their living conditions.

5. The proposed flat extension would be positioned along the common boundary with No 18 and project beyond the existing rear single storey extension of this adjoining property. The rear garden is relatively narrow. According to the dimensions shown on drawings 151028 & 151029 the development would be over 3 metres in height for a length in excess of 9 metres abutting the side boundary of the rear garden of No 18. The proposed extension would create a substantial amount of built development along the common boundary. This would have a significant overbearing effect on the outlook of the occupiers of this property as viewed from their garden.
6. The Council is also concerned that the proposed flat would result in the significant loss of sunlight to the outdoor space associated with No 18. Although some overshadowing of the garden area of No.18 would occur during the course of the day, either as a result of existing surrounding development or by that of the proposed flat, in my judgement the effect would be quite limited.
7. For these reasons I conclude that the proposal would be harmful to the living conditions of future and adjoining occupiers and would conflict with Policy E1 of the Swale Borough Local Plan (the Local Plan) which seeks all development proposals to cause no demonstrable harm to residential amenity, amongst other matters.

#### *Character and appearance of the area*

8. The Council highlights that it does not encourage flat roof structures. I have not been provided any specific explanation from the Council as to why it considers the flat roof to be an unacceptably poor design, nor have any specific design codes, in accordance with the National Planning Policy Framework, been supplied or cited by the Council. Notwithstanding this, I observed that whilst the properties along Hawthorn Road to the north east of the appeal site have been, to differing extents, extended and altered to the rear and that some properties host outbuildings in the rear garden areas, there is a general absence of large flat roof structures to the rear of properties nearby.
9. I appreciate the flat roof design is intended to reduce the visual impact to the occupiers of surrounding properties. However, the proposed accommodation would occupy almost the entire remaining space to the rear of the plot. The size of the proposed development with its expanse of flat roof would be unrelated to the existing development in the area. It would not therefore be, in my opinion, an appropriate form of development in this location. Whilst the development would not be readily visible from Hawthorn Road it would, nonetheless, be visible to adjoining occupiers, including those in Arthur Street.

10. I appreciate that the General Permitted Development Order may enable extensions to dwellings and note the appellant's point that this can include extensions of flat roof single storey design to the rear of properties. However, such permitted development rights do not apply in this case and, in any event, I must consider the appeal scheme on its own merits.
11. For these reasons I conclude that the proposal would be harmful to the character and appearance of the area and would conflict with Policies E1 and E19 of the Local Plan which seek all development proposals to be both well sited and of a scale, height, massing, design and appearance appropriate to the location, amongst other matters.

### **Other matters**

12. The fact that the flat would be provided for shop security purposes in my opinion is largely irrelevant in terms of determining whether or not an acceptable level of living conditions and design standard is achieved. The benefits that the flat may bring about in respect of the operational management of the premises, including the security of stock or safety of patrons or generally adding to the security in the local area do not, in my opinion, outweigh the harm identified above. Although support for the proposal has been raised by some local occupiers, the proposal should nonetheless be considered in terms of the wider public interest.
13. I appreciate the development will be subject to requirements under other legislation, such as, Building Regulations, however I have considered the wider effects of the proposed flat over and above other building construction matters.

### **Conclusion**

14. For the reasons given above, I conclude that the appeal should be dismissed.

*Nicola Davies*

INSPECTOR