
Appeal Decision

Site visit made on 14 November 2016

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 8th December 2016

Appeal Ref: APP/D1590/W/16/3154663

Land to the rear of Clifton Court, Royal Mews, Southend-on-Sea, Essex SS1 1DX

- 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 Mrs V E Parker against the decision of Southend-on-Sea Borough Council.
 - The application Ref 15/01493/FUL, dated 27 July 2015, was refused by notice dated 18 January 2016.
 - The development proposed is redevelopment of the existing car park with two three-bedroom town houses, with integral garages and private amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would preserve or enhance the character or appearance of the Clifftown Conservation Area.
 - The effect on the living conditions of neighbouring occupiers, with particular regard to outlook, privacy and daylight.
 - Whether the proposal would provide acceptable living conditions for future occupants, with particular regard to internal and external living space, refuse storage, outlook and adaptability.
 - Whether the proposal makes adequate on-site car parking provision.
 - Whether the design provides adequate attention to the need for, and effects of, meeting on-site renewable energy provision.

Reasons

Character or appearance of the Clifftown Conservation Area

3. The significance of the Clifftown Conservation Area relates to the planned Georgian and Victorian housing it encompasses, which marked the earliest development of Southend as a seaside resort. Royal Terrace was the original Georgian part of the development of this area and this prominent row of listed buildings faces south over the Thames estuary. Royal Mews is a street that runs north at the end of the Georgian part of Royal Terrace and separates this
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row of buildings from the later Victorian development to its west. The appeal site is located on land used as car parking which fronts onto Royal Mews and is located to the rear of Clifton Court, a three storey building which continues the prominent seafront development along Royal Terrace.

4. The appeal site lies between the rear of the flats in Clifton Court to its south and another Victorian building housing, the Cottage, to its north which houses a dentist practice. The historical form of the development in this area is characterised by the more substantial buildings which form a terrace running east to west facing the sea. The development that would have originally serviced and been subsidiary to this main seafront terrace runs east-west to its north and is separated by mainly open areas, originally back gardens.
5. Although some more recent development has occurred in this area, it mainly observes this historic built pattern which remains quite evident. It is clear that the appeal site would have originally been part of the open rear garden area to Clifton Court. Although Clifton Court and The Cottage include return frontages onto Royal Mews, the section of this road that the appeal site occupies is not part of any historically developed frontage. It would have served as the passage between the seafront development and the buildings to the rear of this. I can therefore give little weight to the case made by the appellant that this proposal would complete development in Royal Mews and be the infilling of a sequence of historic frontage development.
6. On this basis the development of this open site would not reflect the historic grain of the development in this area. Some of the buildings along Royal Terrace have extended to the rear, and the appellant draws my attention to examples at the Naval and Military Club and at Nos 9-11. However, no evidence is provided of when these additions might have taken place and I do not find these examples to offer a strong precedent in support of developing this site.
7. The housing development proposed would erode an important space which provides the historic separation between the surrounding original buildings, which is a significant aspect of the character and appearance of this part of the Conservation Area. I consider there to be strong arguments against the principle of development in this location. The design is intended to be subservient to the buildings either side. However, the pair of dwellings would occupy the full width of the site and be quite substantial and of three-storeys and so this subservience would not be achieved.
8. The contemporary design, with the prominent integral garaging to the front, is intended to give the appearance of an industrial or workshop building which the appellant considers comprises a common feature of this area. However, there is no detailed analysis provided as to how this design would reflect any nearby development or be appropriate in this context. The design and scale of the proposed dwellings, with their unbalanced form and mixture of disparate features, would appear incongruous and out of keeping with the adjacent traditional buildings. The houses proposed would appear cramped and harm the open setting of the adjacent buildings which is a significant aspect to the character of this part of the Conservation Area.
9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The

development of this vacant site, with the nature of building proposed, would neither preserve or enhance the character or appearance of the Clifftown Conservation Area and result in harm. Considerable importance and weight needs to be given to the harm found.

10. I do not judge the harm to the significance of the Conservation Area to be substantial. However, following the advice in paragraph 134 of the National Planning Policy Framework (the Framework), where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case, the only public benefits I can see would be to the general supply of housing and from the re-use of a vacant site. However, these benefits would be limited and clearly outweighed by the harm caused.
11. Due to the conclusion that this proposal would be of harm to the significance of the Clifftown Conservation Area, and would fail to preserve or enhance its character or appearance, it would not comply with the relevant parts of Core Strategy¹ (CS) Policies KP2 and CP4 or with Development Management Document² (DMD) Policies DM1, DM3 and DM5 and the Council's the Supplementary Planning Document 1 Design and Townscape Guide³ (SPD). CS Policy KP1 sets out a spatial strategy for the Borough and is not directly relevant to this issue.

Living conditions of neighbouring occupiers

12. The proposed dwellings would angle away at first-floor level, and the roof would also pitch away, with a double ridge to reduce its height, from the neighbouring properties to the north and south. Despite this, the new building would be sited very near to the windows that face the site from the neighbouring accommodation in both these directions. Housing of the scale and position proposed would create a sense of enclosure and result in a harmfully overbearing impact on those adjacent properties with windows facing in the direction of the development. There would inevitably be a loss of daylight to some of the rooms that these windows serve.
13. The windows serving the new houses would be concentrated in the front and rear elevations and so any views to properties either side would be oblique. Nevertheless, the wide extent of fenestration proposed to the rear would result in some loss of privacy to the existing dwellings these windows would offer views towards.
14. The scheme would have a materially harmful impact upon the living conditions of neighbouring occupiers, due to having an unduly overbearing effect and resulting in the loss of daylight and privacy. Consequently this development would be unneighbourly and conflict with the objectives of CS policies KP2 and CP4 and the requirements of DMD Policy DM1 and the SPD.

Living conditions for future occupants

15. Regardless of when the original application was made, this appeal must be assessed in relation to the current development plan policies. However, the

¹ Southend-on-Sea Core Strategy – Development Plan Document One – adopted December 2007

² Southend-on-Sea Development Management Document July 2015

³ Southend-on-Sea Supplementary Planning Document 1 Design and Townscape Guide 2009

gross internal living area would not fall substantially below the minimum requirements set for this level of accommodation in the Government's Technical housing standards⁴, which the Council adopted in 1 October 2015.

16. The third bedroom of each dwelling would be lit only by means of a high-level window, whereby these rooms would be deprived of an outlook. The rear gardens would be small, although each dwelling would have a balcony. Were this scheme to be acceptable in principle I am not persuaded that it might not be revised as necessary to meet building regulation M4(2). The Council has not shown the refuse storage provided would not be sufficient to cater for two dwellings.
17. Overall, the proposal could provide acceptable living conditions for future occupants, in regard to internal and external living space, refuse storage, outlook and adaptability. Therefore it would not be necessary for me to find this proposal further contrary to CS policies KP2 and CP4, DMD Policies DM3 and DM8 and to the SPD in respect of this particular issue.

Parking provision

18. The integral garages provided for each dwelling would fall significantly below the internal dimensions required under DMD Policy DM15. As such it is reasonable to conclude the proposal deficient in the parking requirement of 1 space per dwelling. The appellant considers that the garages could nonetheless physically accommodate a family car. It is further pointed out that the dwellings are in close walking distance to good bus and rail services and so future occupiers would not be overly reliant on private car use. Examples of two nearby residential developments recently granted, one on appeal, without parking provision are quoted. However, the details and circumstances of these decisions are not supplied and so I can give these examples limited weight.
19. The two family-sized dwellings proposed would, despite the central location of this proposal and its good access to public transport, be likely to generate a level of private car use that would justify full compliance with the Council's parking standards. The unsatisfactory level of on-site parking provided in this scheme would lead to additional pressure on the limited alternative provision available off-site. This would exacerbate the existing pressure on on-street parking which would not be in the interests of highway safety or of the satisfactory operation of the local highway network. This would conflict with the aims of CS Policy CP3, DMD Policy DM15 and the SPD in regard to the need to make adequate provision for car parking.

On-site renewable energy provision

20. The proposal has not shown how the scheme would satisfy the requirement of meeting 10% of energy needs from onsite renewable resources necessary to comply with CS Policy KP2, DMD Policy DM2 and the SPD. The SPD seeks for this requirement to be considered early in the design process. The appellant considers this requirement could be met by photovoltaic panels on the south facing roof slopes. However, this issue should have been considered as part of the development of the original scheme so that the effect on the appearance of the Conservation Area and the impact on neighbours could have been sought

⁴ Department for Communities and Local Government – nationally described space standard. March 2015.

to be adequately addressed. For this reason, this proposal would conflict with the aforementioned policies.

Conclusions

21. The proposal would be contrary to the aims of the Framework in respect of conserving and enhancing the historic environment, always seeking to secure a good standard of amenity for all existing occupants of land and buildings, improving the quality of parking in town centres so that it is convenient, safe and secure and encouraging the use of renewable resources. For the reasons given, having taken into account all other matters raised, I conclude that this appeal should be dismissed.

Jonathan Price

INSPECTOR