

Appeal Decision

Site visit made on 13 December 2016

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 13 January 2017

Appeal Ref: APP/D1590/W/16/3157414

143 Leigh Road, Leigh-on-Sea, Southend-on-Sea SS9 1JQ

- 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 Arvinda Patel against the decision of Southend-on-Sea Borough Council.
 - The application Ref 15/02108/FUL, dated 16 December 2015, was refused by notice dated 15 March 2016.
 - The development proposed is erect single storey side and rear extension to form dwellinghouse and entrance to self-contained flat at first floor, extend existing vehicular crossover on to Lord Roberts Avenue and layout parking to rear.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. For brevity and clarity I have used the description of the development on the Council's decision notice in the heading above.

Main Issues

3. The main issues are the effect of the development on:
 - the efficient operation and safety of the highway;
 - the character and appearance of the area; and,
 - the living conditions of future occupiers.

Reasons

Operation of the highway

4. The appeal site is the rear of a retail premises (No 143) with residential accommodation above, situated on a narrow corner plot at the junction of Leigh Road and Lord Roberts Avenue. The area behind the shop is currently used for car parking and when I visited, there were three cars parked within the appeal site area.
 5. The development comprises a single storey extension providing a self-contained flat. It would continue the flank wall of No 143 along Lord Roberts Avenue and extend some 3.5 metres to the rear, with a further amenity area and two parking bays. The Council does not object to the principle of
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- development. The existing retail unit is to be let, and the flat above retained as living accommodation.
6. I noted on my visit that parking in the vicinity of the appeal site is very difficult. Nearby residential roads were lined on both side by parked vehicles which prevented two running lanes of traffic. There was no evidence of a residents' permit scheme, and during my visit a delivery vehicle was unloading to a nearby commercial outlet whilst parked on double yellow lines alongside the appeal site. This reinforced my impression that parking for both residents and businesses is severely restricted. It is also likely that there would be more demand for on-street parking in the evenings and at weekends.
 7. The appellant proposes one parking bay each for the existing shop and flat and nil provision for the proposed development. However, the Council's parking standards¹ require one space per 20 sqm for non-food shops, which given the shop's former use as a newsagent, is an appropriate guide. Using this standard, the shop alone would require three spaces. Given the limited parking in the vicinity of the appeal site I am not persuaded that one parking bay would be sufficient for the shop, particularly as I would expect the shop's tenant to need it for long term parking during opening hours. Whilst Policy DM15 of the Local Plan² (LP) states that residential vehicle parking standards may be applied flexibly, there is nothing in the policy to indicate this flexibility applies to commercial development.
 8. The parking standards also require one space each for the existing and proposed flats. I acknowledge that the appeal site is conveniently located for public transport, but it cannot be presumed that future occupiers of the development would not own a car. Consequently, the development would reduce off-street parking provision whilst increasing occupancy of the site.
 9. Furthermore, there were three cars parked on the appeal site at my visit and although I cannot conclude that they were connected to occupancy of the existing premises, this observation also reinforces my view that the development would fail to provide adequate parking spaces and would displace existing off-street parking provision. Given the congestion on nearby roads caused by parked vehicles I conclude the development would have an adverse effect on the safe and efficient operation of the highway and increase parking stress in the area, albeit incrementally. I give this moderate weight.
 10. Consequently, the development would be contrary to Policy CP3 of the Core Strategy³ (CS) which aims to improve road and safety and quality of life through transport and accessibility, and LP Policy DM15 which states reliance on on-street parking will only be considered appropriate where it can be demonstrated that there is on-street capacity. Although LP Policy DM15 states that residential parking standards can be applied flexibly in sustainable locations, the policy also states that this exception only applies where the rigid application of these standards would have a detrimental impact on local character and context, which would not be the case here.
 11. The appellant states that if on-street parking were a problem, there would be a permit scheme. However, on the basis of my observations I disagree that the

¹ Appendix 6, Development Management Document, adopted July 2015

² Southend on Sea, Development Management Document, adopted July 2015

³ Southend on Sea Core Strategy, adopted December 2007

lack of a permit scheme indicates that on-street parking is not a problem. There could be many reasons as to why the Council has not introduced such a scheme. I also appreciate that many retail units and flats in the area do not have dedicated parking but this reinforces my view that a reduction in off-street provision alongside potential increased demand, would increase parking stress.

12. As such, the development would be contrary to LP Policy DM15 which states that reliance on on-street parking will only be considered appropriate where it can be demonstrated by the appellant that there is on-street capacity.

Character and appearance

13. There is an existing vehicle crossover between two street trees to access the site, and one of them would need to be removed to enable vehicles to access the proposed parking bays as shown on the layout drawing⁴. The statement of case notes there is only one tree and that its position is shown inaccurately on the layout. I have to disagree with this assertion as there is a tree in the position shown. There is a further tree located between the existing vehicular crossover and the corner of Leigh Road which would be unaffected by the development. Street trees are spaced intermittently along Lord Roberts Avenue, but there is evidence of replacement and new planting. Although the tree that would be removed is younger than others on the street, this does not diminish the impact of its loss as trees take a considerable time to become established.
14. There are indications at the rear of No 143 that the building previously had ground floor outbuildings. The proposed wrap-around extension, with its shallow pitch roofs, and a new frontage parallel to Lord Roberts Avenue would remain subservient to the host dwelling. In addition, although the shallow pitch of the roofs would not reflect the steeper roof pitch of the host building, I consider the design would fairly successfully resolve the issues posed by the respective building lines of Leigh Road and Lord Roberts Avenue, which form an acute angle. It would also be of a scale reflective of ground floor additions and outbuildings often associated with the rear of terraces of commercial frontages.
15. Furthermore, although No 143's existing rear elevation is well-maintained, the blocked off windows and underlying commercial character are a contrast to the more residential nature of Lord Roberts Avenue. The development would have a residential character which would not be out of place. As such, I disagree with the Council that the development would fail to integrate with the existing building or relate poorly to adjacent properties or the street scene in general.
16. The Council has stated that the crossover would exceed the given dimensions, as part of the existing crossover would be redundant. However, alterations to the crossover could be required by the imposition of a condition, and I give this argument little weight.
17. The Council has raised a concern in relation to the proposed bin store and its effect on the street scene. The elevations provided show the bin store concealed behind double gates; as long as these were closed I do not consider that the bin store would have a significant detrimental impact on the street scene.

⁴ Dwg. 327/05

18. However, the development would require the loss of a street tree which would be to the detriment of the character and appearance of the street scene. This would be contrary to LP Policy DM15 which states that access to the proposed development must not unreasonably harm the surroundings. The development would also be contrary to advice contained within the SPD⁵ which states that new proposals should be designed to accommodate existing trees wherever possible. CP Policy CP3 appears to be concerned with accessibility and transport at a more strategic level, and as such I do not consider it of relevance here.
19. With regard to the design of the development's built form, CS Policy CP4 requires development to maintain and enhance the amenities, appeal and character of residential areas and CS Policy KP2 requires development to respect the character of existing neighbourhoods and make the best use of previously developed land. I find no conflict with either of these policies. Nor would the design of the proposals be contrary to LP Policy DM1 which requires development to respect the local context of the site.

Living conditions

20. The kitchen of the development would not have any windows and whilst there would be borrowed light from an adjoining living room, this would be contrary to guidance given in the SPD which states that all habitable rooms in extensions must have natural light, ventilation and daylight. I consider this proposed layout would be detrimental to the living conditions of future occupiers.
21. The floorspace of the single bedroomed flat proposed would, at 49.2 sqm, be slightly less than the 50 sqm required by the National Housing Standards. However, I am not persuaded that a shortfall of 0.8 sqm would have a significant effect on the living conditions of future occupiers particularly as the evidence before me indicates that the Council's former standards in this respect were 45 sqm⁶.
22. The external amenity space would measure 9.2 sqm and would be surrounded by a wall some 1.8 metres high. The Council does not give thresholds for amenity space and I consider 9.2 sqm would be acceptable as it is more than would necessarily be provided for a balcony in flatted development, and there are parks and the seafront within easy walking distance.
23. I disagree with the Council that the living room and bedroom windows would be overlooked to the detriment of the living conditions of future occupiers; neither is hard against the footway and although dwellings on Lord Roberts Avenue are further back from the footway, their front living rooms require blinds or curtains to ensure privacy. Furthermore, ground floor bedrooms in flatted development are not uncommon, even with pedestrian access immediately outside. Therefore I give the arguments regarding privacy for future occupiers, amenity space and overall floorspace, little weight.
24. With regard to accessibility, the National Technical Housing Standards (NTHS), introduced in October 2015, supersede all earlier housing standards, and the Council requires the enhanced accessibility requirement (Category 2) in Building Regulation M4 to replace LP Policy DM8's reference to the Lifetime

⁵ SPD1 Design and Townscape Guide 2009

⁶ LP Policy DM8, Policy Table 4

Homes Standards. However, the development would be a ground floor flat with what appears to be ramped access to the entrance doors. Although I concur with the Council that the appellant has not demonstrated that the internal layout would meet the enhanced accessibility standards set out in the Building Regulations, I am not satisfied that this would cause sufficient harm to future living conditions to warrant dismissal of the appeal.

25. The Council has also cited lack of space for cycle storage but I concur with the appellant that there would be storage space between the back of the footway and the development's frontage, as this space is unlikely to be used for recreation by future occupiers.
26. In the light of the above, I consider the development would be contrary to LP Policy DM3 which states that development will be resisted where it would have a detrimental impact on the living conditions of future residents, and LP Policy DM8 which requires development to provide convenient usable and effective room layouts. It would also be contrary to guidance contained within the SPD.
27. There would be no conflict with LP Policy DM15 with regard to cycle storage, and although the Council has also cited policy LP Policy DM1, this is a more general design policy which is of lesser relevance to future living conditions than the two I have referred to above. CS policies CP4 and KP2 are also cited in the reasons for refusal, but these are also general design policies which are of lesser relevance here.

Other matters

28. The Council has referred to the National Planning Policy Framework (the Framework) in its reasons for refusal. However, it has not cited specific sections or paragraphs. In any case, I have found harm with regard to the principal policies cited above from the LP and CS. Consequently I have not referred to guidance within the Framework in my reasoning.
29. The appellant has noted that a previous application for a similar scheme on the appeal site was refused solely on design grounds⁷. However, that was determined in a different policy context and as such I give this argument little weight.

Conclusion

30. I appreciate that the development would provide one additional unit of accommodation. However, this benefit would not outweigh the harm I have identified above. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and Core Strategy and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR

⁷ Ref 10/01430/FUL