

Appeal Decision

Site visit made on 23 November, 2016

by **S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

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

Decision date: 26th January, 2017

Appeal Ref: APP/D1590/W/16/3156957

217 - 219 Elm Road, Leigh-on-Sea, Southend-on-Sea, SS9 1SA

- 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 R Vaufrourard against the decision of Southend-on-Sea Borough Council.
 - The application Ref 16/00453/FUL dated 22 March, 2016 was refused by notice dated 27 May, 2016.
 - The development proposed is to demolish the existing building and erect a part-two storey, part-three storey building comprising one dwelling house with amenity space and two flats with balconies, refuse and cycle storage and layout parking to front.
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Decision

1. The appeal is allowed and planning permission is granted to demolish the existing building and erect a part-two storey, part-three storey building comprising one dwelling house with amenity space and two flats with balconies, refuse and cycle storage and layout parking to front at 217 - 219 Elm Road, Leigh-on-Sea, Southend-on-Sea, SS9 1SA in accordance with the terms of the application, Ref 16/00453/FUL dated 22 March, 2016 and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. A revised description of development was agreed between the Council and the applicant, and the application was determined on that basis. I have therefore followed the revised description in this decision.
3. Revised plans were submitted as part of the appeal (refs. TP-201C, TP202A, 3-F1, 3-F2, 3-H1) containing clarifications and some minor amendments to internal layouts and to materials. However, the appellant did not clearly request me to take these plans into consideration, stating that I should only do so if I had concerns about the original plans. I have therefore determined the application on the basis of the originally submitted plans.

Main Issues

4. The main issues are:
 - a) The effect on the character and appearance of the area;
 - b) Whether the proposed development would result in the loss of employment land, and if it does, the effect of this on the local economy;
 - c) The effect on the living conditions of future occupiers of the appeal dwellings.
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Reasons

The effect of the proposal on the character and appearance of the area;

5. The area around the appeal site has a mixed residential character of traditional two storey semi-detached and terraced houses, some in a pleasing Arts and Crafts style, mainly fronted by modest front gardens. The appeal building although of two storeys is utilitarian in appearance, relatively low in height and has a horizontal emphasis created by its fenestration. It therefore stands out as an anomalous element in the area.
6. The appeal building would be of three and four storeys, including roof storeys, and would comprise a pair of two-bedroomed maisonettes and a house. The site is flanked to its left by a distinctive group of dwellings with canted bays and steeply pitched gables. The south elevation of the proposed building, fronting the maisonettes, would form a continuation of that terrace with a slightly higher ridgeline, and taking a design cue from them with a projecting gabled bay. The east elevation would include the gabled end of the southern, maisonette range, dropping to the ridge line of the house, which is roughly equivalent to that of the adjoining houses on that frontage to the north. The proposed building would therefore turn the corner of Elm Road at heights which would not be significantly greater than those of adjoining buildings on either side, and through these small increases would allow variations in its roofline which would therefore allow its massing to be broken up into smaller elements.
7. Although the eaves lines and storeys do not align with those of adjoining properties, the variation in design of houses in the area means that there is no common eaves line or storey line along Elm Road, and I do not consider that this would cause significant harm to the character and appearance of the area.
8. The design incorporates articulation into bays, and would include elements such as roofs, dormers and gables comparable in scale to those of other buildings in the area. The windows would relate more to the narrower fenestration of the houses on both sides of Elm Road to the north of the site, and would be aligned to strengthen the rhythm of the elevations. The design therefore breaks up the massing of the building into forms which would not be significantly out of scale with those of other houses in the vicinity.
9. The surrounding area is relatively densely developed, and contains both detached houses and terraces and other buildings which take up the full extent or a large proportion of their plot width. A sense of spaciousness in these dwellings is created by the presence of small front gardens. The appeal proposal, while it would occupy most of its plot width on both frontages would also have a generous area of parking and landscaping in front of both elevations. It would not, therefore, as a result appear significantly cramped in the context of the built form of the area, and I do not consider that it would thereby create a sense of overdevelopment.
10. Activity on the street frontage would be created by the presence of front doors and windows to habitable rooms, and notwithstanding the window sizes, would therefore be no less than that of other buildings within the area.
11. The appeal site sits on the inside of a corner where Elm Road bends at a roughly ninety degree angle and so would be only obliquely visible in views along Elm Road, and would not therefore form an unduly prominent element in the streetscape in that respect. It would be framed by views west along

Queens Street, but this is not a significant viewpoint within the area, and the proposal, by seeking to turn the corner and relate to adjoining buildings would not therefore present an overly prominent building in those views.

12. The area around the appeal site is relatively densely developed and has presented limited opportunities for modern infill. There are therefore no precedents nearby for more contemporary design within the area, beyond some of the more modern buildings on London Road, albeit some distance away. While the building would be of unashamedly modern design, it takes design cues from adjoining traditional housing in the vicinity in the elements included and their scale, and would therefore be capable of complementing the character of the area without directly copying existing buildings.
13. The local palette of materials includes yellow brickwork, red brick detailing, painted render and pantiles, clay tiles or slate roof surfacing. While the appeal building would include conspicuously modern materials such as metal for cladding and windows, it would also include traditional materials such as brick, timber doors and natural slate roofing. The colour palette of the proposal is therefore more varied than that of typical local materials, but this is an issue which is capable of refining by use of condition.
14. I conclude therefore that the appeal proposal would not cause significant harm to the character and appearance of the area. By removing the uncharacteristic and utilitarian structure of the present building and its replacement with a building which relates to existing buildings in the area in terms of scale, massing and design, it would represent an improvement to this character and appearance. It would therefore not conflict with Policy KP2 of the CS which seeks good quality in design, nor with Policy CP4 of the CS which seeks high quality of development, encouraging innovation and excellence in design to create a sense of place.
15. Nor would it conflict with Policy DM1 of the DPD which seeks good quality design which complements its surroundings and Policy DM3 of the DPD which seeks good design which response positively to local context and does not lead to over-intensification. I conclude also that it would not conflict with SPD1 (Design and Townscape Guidance) where it advocates successful integration of new development in terms of appropriate scale, height and massing in relation to the existing built fabric, cohesive design, good quality of materials and detailing.

Whether the proposed development would result in the loss of employment land, and if it does, the effect of this on the local economy

16. The appeal building is at its ground floor a utilitarian structure of the early twentieth century with some evidence of rising damp in the form of blistered paintwork and crazing to the render at plinth level. The first floor extension dating from the 1980s is of a very lightweight construction and as a result poorly insulated.
17. As a whole the building provides basic office accommodation, currently in use on a three month rolling lease by a home care agency. It has not been indicated that it is in a part of the borough identified for economic growth or regeneration, nor that it is within a defined Employment Area.
18. The appellant has supplied indicative figures for improvements to bring the office accommodation up to a reasonable standard and has indicated that this

would not be economically viable even with an increase in annual rent. Given the construction and condition of the building, its current short term rental arrangement and low levels of rental currently achieved, I have no reason to doubt this assessment. Its offer on more competitive rental levels would be likely to further reduce available funds for upgrading the building to acceptable standards.

19. The appeal building is located to the south of the main retail and business frontage on the A13 London Road, but is some distance from that and sits in a primarily residential area. Although retention in light industrial or office use should not in principle present problems in a residential environment, in practice such uses are perceived to do so. For those reasons, and given the standard of accommodation provided, the appeal property does not therefore appear likely to be immediately attractive for alternative employment uses by new or long-term tenants.
20. I note the appellant's contention that the appeal building provides only a small amount of employment floor-space. As I have concluded above, it currently has a harmful effect on the character and appearance of the surrounding area, and its redevelopment provides an opportunity to reduce that harm. I consider therefore that the potential benefits of the proposal would outweigh the harm created by a limited reduction in employment land supply.
21. It would therefore not conflict with Policy CP1 of the Southend-on-Sea Core Strategy 2007 (the CS), which requires that permission will not normally be granted for development proposals that involve the loss of existing employment land and premises unless it can be clearly demonstrated that the proposal will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area.
22. Nor would the appeal proposal conflict with Policy DM11 of the Development Management DPD revised proposed submission 2014 (the DPD) which requires that outside the identified Employment Areas, proposals for alternative uses on sites used or last used for employment purposes will only be permitted where it can be demonstrated that it will no longer be effective or viable to accommodate the continued use of the site for employment purposes. As Policy DM11 requires that a qualitative appraisal be submitted to support such proposals, looking at the advantages and limitations of the site or premises in question in accommodating employment uses, I conclude that that the provision of marketing evidence, as sought by the Council, is optional, and that the policy could not be reasonably interpreted as requiring an applicant to provide an economic appraisal of the potential redevelopment of the site for alternative economic uses.
23. I have had regard to the appeal decision relating to no. 83 Elm Road, but conclude that, as it relates to a building of relatively recent construction in greater proximity to the town centre, the circumstances of the cases are not directly comparable. It does not, therefore, cause me to alter my conclusion on this case.
24. For these reasons I conclude that although the appeal proposal would result in a small reduction in employment land, its continued use for business would not represent effective use of the land, and it would not therefore conflict with the Framework where it seeks the effective use of land.

The effect of the proposal on the living conditions of future occupiers of the appeal dwellings.

25. The plans set out space standards that generally appear to meet the minimum standards for residential accommodation required by the National Technical Housing Standards and by Policy DM8 of the DPD. The exception to this is bedroom 3 of the dwellinghouse, which attains a floor space which is below the relevant standard.
26. I have considered the Council's view that this not a matter capable of being resolved reasonably by condition. Although I am not determining the appeal on the basis of amended drawing Ref. 3-H1, it has been put before me, and indicates that a minor adjustment to the partition wall between bedroom 2, which exceeds the space standards, and bedroom 3, would be capable of providing adequate floor space to bedroom 3 without requiring changes to the external appearance of the dwelling. I conclude therefore that compliance with the National Technical Housing Standards can reasonably be secured by condition.
27. The appellant has confirmed that the proposal is compliant with part M of the Building Regulations, and I see no reason to doubt this.
28. As, therefore, the accommodation provided by the dwellinghouse is otherwise adequate, and as minor alterations to the layout to achieve compliance could reasonably be secured by condition, I conclude that while the shortfall in floor space for one of the bedrooms would fail to meet the requirements of Policy DM8 of the DPD and of the National Technical Housing Standards, it would result in limited harm to the living conditions of future occupiers of that dwelling. This does not as a result cause me to alter my conclusion overall.

Conclusion

29. For the reasons given above, and taking into account matters raised, I conclude therefore that the appeal should be allowed.

Conditions

30. I have considered the conditions suggested by the Council and the requirements of the Framework. In the interests of clarity, a condition is attached requiring implementation of the development in accordance with the approved plans. As the approved plans indicate existing and proposed site levels, I do not consider it necessary to add a condition requiring further details of these. A condition requiring submission of details of external facing materials is necessary to protect the character and appearance of the area.
31. A condition is attached requiring the provision of parking spaces prior to the occupation of the dwellings and a further condition requires approval of the details of crossovers and their provision prior to the occupation of the dwellings. Both are to ensure that there will be adequate and safely accessed off-street parking on the site, in the interests of highways safety.
32. A condition is attached requiring details of how 10% of the energy needs of the new development will come from on-site renewable resources, in order to minimise the consumption of resources. A condition is attached regarding water efficiency in order to minimise the environmental impact of the development through efficient use of water. Conditions seeking compliance

with optional accessible and adaptable homes standards and with internal space standards are attached in the interests of protecting the living conditions of future occupiers of the approved dwellings.

33. The Framework and Planning Practice Guidance indicate that removal of national permitted development rights will rarely be necessary, and that conditions should not be used to do so unless there is a clear justification. No clear justification has been provided, and I have not therefore included a condition to remove permitted development rights for extensions or outbuildings to the approved dwellings.

S J Buckingham

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Otherwise than in compliance with condition 10, the development hereby permitted shall be carried out in accordance with the following approved plans: TP-201A, TP-202 and TP-203.
- 3) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. TP-201A for 4 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 5) No development shall take place until details of the standards to which the crossovers serving the development are to be constructed shall have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the crossovers have been constructed in accordance with the approved details.
- 6) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development.
- 7) No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and thereafter retained in operation.
- 8) The dwellings shall not be occupied until the Building Regulations Optional Requirement G2 36(2)(b) in respect of water efficiency has been complied with.
- 9) The dwellings shall not be occupied until Building Regulation Optional Requirement M4(2) "accessible and adaptable dwellings" has been complied with.
- 10) Notwithstanding the details shown on the approved plans, the dwellings shall not be occupied until the nationally described space standards have been complied with, and the details of compliance provided to the local planning authority.