
Appeal Decision

Site visit made on 21 February 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 14th March 2017

Appeal Ref: APP/D1590/W/16/3162144

42, First Floor, London Road, Southend-on-Sea, Essex SS1 1NT

- 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 Carl Cantor against the decision of Southend-on-sea Borough Council.
 - The application Ref 16/01215/FUL, dated 1 July 2016, was refused by notice dated 16 September 2016.
 - The development proposed is add additional floor to the existing property to provide 4 residential units and amend existing mechanical plant.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On the evidence before me the Council do not object to the principle of development, the effect on the character and appearance of the area, living conditions of neighbouring occupiers or highway safety. Having visited the site and on the evidence before me I have no reason to disagree.

Main Issue

3. Given the above, the main issue is whether acceptable living conditions would be created for future occupiers, with particular regard to outlook.

Reasons

4. The appeal site is formed by an existing two storey building that contains restaurant uses at ground and first floor. It is a large and modern brick building located on the corner of London Road and College Way within the Southend Defined Shopping Centre. The building has a flat roof area, set behind and below a mansard roof which surrounds the building on 3 sides and contains a number of plant installations and equipment. The proposal would effectively be a form of infill development as it would fill the majority of the space between the roof structures with a flat roofed single storey building containing 4, 2 bedroom units.
 5. Each unit would be served by an enclosed amenity space facing College Way located immediately behind the existing roof. In such close proximity to the rear elevation of the units and given the height of the internal facing wall of the roof, there would be a strong sense of enclosure from within the living area and amenity space of the units, in particular for units 1 and 2.
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6. Moreover, the sole window serving bedrooms 1 and 2 in units 1 and 2 and bedroom 1 in unit 3 would be very close to the 1.8m screen enclosing the walkway, looking directly onto it. In unit 4 the bedrooms would face directly onto an acoustic screen that would enclose 4 relocated extraction vents that would continue to serve the retained restaurant uses below. Although bedrooms are predominantly used for sleeping, they are also used for other activities and it is reasonable to expect that future occupiers would spend a significant amount of time within them. The proximity of the screens would be visually overbearing from the bedroom windows and the combination of the close proximity of the roof structure immediately to the rear and such a severely restricted outlook from the bedrooms would result in a perception of enclosure on all sides that would create an oppressive and confined living environment.
7. For these reasons, the proposal would not create acceptable living conditions for future occupiers in terms of outlook and to my mind the proposal would not therefore represent a high quality of design. It would conflict with Policies DM1, DM3 and DM8 of the Southend on Sea Development Management Document 2015 and the Supplementary Planning Document 1 Design and Townscape Guide 2009. Amongst other things these require a high quality, sustainable design that contributes positively to the creation of successful places, resists infill development that has a detrimental impact upon living conditions and the amenity of future residents and seek to ensure that the internal environment of all new dwellings is of a high quality.
8. I note the appellant's concerns regarding the applicability of the development plan policies cited by the Council. However, the issue at the heart of this appeal is an inherently subjective judgement concerning the appropriateness of the living conditions that the proposal would create and to my mind, the policies and guidance seek to create such conditions through securing high quality design. The policies are consistent with the National Planning Policy Framework ('the Framework') and accordingly, the proposal would conflict with the Framework's objective of always seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

9. The appellant contends that the proposal would be sustainable development. In this particular case, the proposal would not accord with an up to date development plan which is not absent, nor is it silent and on the evidence before me there are no relevant policies that are out of date. As such, it would not be the sustainable development for which the Framework indicates a presumption in favour. In the unweighted balancing exercise required the minimal economic and social benefits from the provision of 4 units in an accessible location and on previously developed land do not outweigh the failure to create acceptable living conditions for future occupiers.
10. I acknowledge that the scheme is a resubmission and that amendments have been made by the appellant in an attempt to address the Council's previous concerns. However, having determined the appeal on its own merits, as I am required to do, this does not outweigh or justify the harm that I have identified in relation to the main issue.
11. The appellant has referred to other developments within the area but I have not been provided with the full details and moreover, these appear to relate to

the conversion of offices for which there are different considerations. Accordingly, I cannot be certain they are directly comparable to the proposal before me and they do not therefore alter my view in relation to the main issue.

Conclusion

12. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that the proposal should be determined other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR