
Appeal Decision

Site visit made on 24 May 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 19th June 2017

Appeal Ref: APP/D1590/W/17/3168825

88 Pall Mall, Leigh on Sea SS9 1RG

- 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 Cramer against the decision of Southend-on-Sea Borough Council.
 - The application Ref 16/01257/FUL, dated 7 July 2016, was refused by notice dated 22 September 2016.
 - The development proposed is demolition of the existing building currently used as a gym and the erection of a terrace of three, four bedroom dwelling houses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr R Cramer against Southend-on-Sea Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the development would provide adequate off-street parking;
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to overbearing/outlook, privacy and light; and
 - whether it is necessary to demonstrate compliance with regulation M4(2) of the Building Regulations in terms of the development's accessibility and adaptability for its occupiers.

Reasons

4. The development would involve the demolition of a part single and part two storey gymnasium building (No 88) and the construction of a terrace of three houses. The houses would have four bedrooms and they would each have three floors of accommodation, with the upper floor being within the roofs.
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Parking

5. Each of the houses would have one driveway parking space. Policy DM15 of the Southend on Sea Development Management Document of 2015 (the DMD) requires on-site parking to be provided in accordance with the standards stated in Appendix 6 of the DMD. To comply with the parking standards dwellings of two or more bedrooms should have a minimum of two off-street parking spaces. None of the houses within the development would comply with the parking standards.
6. As four bedroom dwellings, these houses would be family sized and they could well be occupied by households owning more than one car. Significant stretches of Pall Mall are subject to parking restrictions and the Council considers this street is subject to parking stress. At the time of my early afternoon visit the on-street parking that is available was near to being fully utilised, with there being no available parking between Pall Mall's junctions with Leigh Hall Road and Canonsleigh Crescent. I therefore consider that Pall Mall is a street with very little capacity to accommodate additional long term on-street parking.
7. Given the limited off-street parking that would be available within the development, I consider that it would have the potential to exacerbate the area's parking stress. While there is fairly good access to public transport facilities, local shops and community facilities etc, I consider that that level of accessibility would be insufficient to deter multi car owning households from occupying this development. The development would therefore have the potential to generate additional long term on-street parking that could be harmful to the free and safe flow of traffic on Pall Mall.
8. While the gymnasium has the potential to generate some on-street parking and its parking arrangements do not comply with the parking standards, I consider that its parking demand is not comparable with the proposed houses. That is because visits to the gymnasium are likely to be of a short term nature and any on-street parking associated with its use would also be of a short term duration. By contrast any overflow parking arising from the occupation of the houses would be likely to be of a longer duration and of greater significance to the area's parking stress. While the recently constructed houses at 90A to 90C Pall Mall (Nos 90A to 90C) each have one parking space, the Council has submitted that the permission for those dwellings predates the adoption of the current parking standards. The policy that was extant when the permission for Nos 90A to 90C was granted is therefore not comparable.
9. I therefore conclude that the development would provide inadequate off-street parking, resulting in conflict with Policy DM15 of the DMD.

Character and Appearance

10. Pall Mall for the most part comprises two storey terraced housing of varying designs and ages. There has, however, been some more recent development including Nos 90A to 90C, which are three storey town houses, with attic accommodation. No 88 is something of an anomaly for Pall Mall in that it is a detached building sited at the rear of its plot with a ten space parking area in

front of it. To accommodate the parking for each of the houses their front elevations would be set behind the front elevations of Nos 86 and 90A to 90C. The setting back of the front elevations of the houses relative to their neighbours would not be wholly consistent with the pattern of development in Pall Mall. However, I am of the opinion that the inconsistency in this regard would not be of such significance as to be harmful to the streetscene.

11. While the proposed terrace would have a ridge height higher than No 86 and lower than Nos 90A to 90C, the mass of its roof would be relieved by the incorporation of the front gable features. I therefore consider that the scale of the terrace's roof would not appear overly dominant or out of place in the local streetscene. As the terrace would be of a unique design and its front elevation would read as a distinct feature in the streetscene, I am not persuaded that scale of the gables would look out of place relative to the existing front gables present in this street. I am also of the opinion that there would be nothing objectionable about the fenestration arrangements or overall composition of the terrace's front elevation. Views of the rear elevation, including the dormers, would not be prominent from Leigh Hall Road and I therefore consider that this aspect of the development is also unobjectionable.
12. The Council considers that the frontage parking would have a prominent appearance, however, that assessment appears to ignore the fact that the site's frontage is currently dominated by an unattractive car park.
13. I therefore conclude that the development would not be harmful to the character and appearance of the area. There would therefore be no conflict with Policies KP2 and CP4 of the Southend on Sea Core Strategy of 2007, Policies DM1 and DM3 of the DMD, section 7 (Requiring good design) of the National Planning Policy Framework (the Framework) and the Council's Design and Townscape Guide Supplementary Planning Document No 1 of 2009. That is because the design of the development would be of a good quality and its scale, mass, height and appearance would respond positively to its surroundings.

Living conditions for the occupiers of neighbouring properties

14. The rear elevations of the new houses would project beyond the rear elevation of No 90C. There would therefore be some potential for the occupiers of Nos No 90A to 90C to experience some reduction in their outlook. However, I considered that any reduction in outlook associated with the development needs to be considered in the context of the reduction in the sense of enclosure that would arise from the demolition of the gymnasium building, which is sited wholly behind Nos 90A to 90C. I consider that the existing building's removal would significantly improve the outlook to the rear of Nos 90A to 90C and that this benefit would outweigh any loss of outlook arising from the new houses' rearward project. On balance I therefore consider that the development would not be overbearing for the occupiers of Nos 90A to 90C.
15. No 90C has a southerly aspect and I consider that the orientation of that property relative to the new houses would mean that the occupiers of No 90C would experience no unacceptable loss of natural lighting to the interior of their property. While some overshadowing of Nos 90A's to 90C's gardens

might occur that would be off-set by the improvement that would arise from the demolition of the existing building.

16. No 86 has various windows that face towards No 88, however, those windows appear to be primarily of a secondary nature. While some loss of outlook from and receipt of light to No 86's windows would arise, I consider that this would not be of such significance to warrant the withholding of planning permission. In terms of outlook some improvement would arise from the demolition of the existing building.
17. The Council has assessed the degree of separation between the rear elevations of the properties in Canonsleigh Crescent and the new houses as being in the region of 23.8 metres. I consider that degree of separation would be sufficient to ensure that no unacceptable overlooking between the new and existing properties would arise. I also consider that, notwithstanding the height of the new houses, their siting would mean that the occupiers of the properties in Canonsleigh Crescent would not experience any unacceptable sense of overbearing. The outlook for the occupiers of the properties in Canonsleigh Crescent would be improved as a consequence of the removal of the existing building.
18. For the reasons given above I conclude that the development would not be harmful to the living conditions of the occupiers of the neighbouring properties. There would therefore be no conflict with Policy CP4 of the Core Strategy and Policies DM1 and DM3 of the DMD. That is because the amenities (living conditions) of residential occupiers within the vicinity of the development would be maintained and there would be a good relationship between the new and existing dwellings, with there being no unacceptable effect on outlook, privacy or the receipt of light.

Accessibility and Adaptability

19. The Council contends that it has not demonstrated that the new houses would provide a level of internal and external accessibility and adaptability for older occupiers or wheelchair users having regard to regulation M4(2) of the Building Regulations. The third and fourth criteria of Policy DM8 of the DMD specifically address lifetime homes standards and wheelchair accessibility. The fourth criteria makes it clear that only for developments of ten dwellings or more will it be necessary for ten per cent of the dwellings to be wheel chair accessible. The appeal development is below Policy DM8's threshold relating to wheelchair accessibility.
20. No other extant locally adopted policy has been drawn to my attention requiring it be demonstrated that a development of this scale should be designed so as to meet the Building Regulations' accessibility and adaptability requirements.
21. The Planning Practice Guidance's (PPG) section relating to the 'Housing optional technical standards' (the HOTS) provides guidance on the relationship between the Building Regulations, the HOTS and development plan policies. The PPG¹ makes it clear that while development plan policies can address the provision of enhanced accessibility or adaptability measures this should only be made by reference to the relevant part of the Building Regulations.

¹ PPG Paragraph: 008 Reference ID: 56-008-20160519

However, the PPG further explains that it is inappropriate for local planning authorities to impose additional information requirements or to seek to determine compliance with such requirements, with it being for building control bodies to secure compliance with these regulations. The PPG also states that in the case of wheelchair accessible homes development plan policies should only be applied to those dwellings where the local authority is responsible for allocating or nominating a person to live in that dwelling². Requiring all new homes to be wheelchair accessible would therefore be inconsistent with the national guidance.

22. Given the provisions of the PPG I am of the opinion that national planning policy and guidance does not provide support for planning permission being withheld on the basis of a planning application not demonstrating accessibility and adaptability for wheelchair users or the elderly. I therefore conclude that demonstrating compliance with regulation M4(2) of the Building Regulations is not relevant to the determination of the appealed application and as such there would be no conflict with Policy DM8 of the DMD.
23. The fourth reason for conflict cites conflict with various other development plan policies, however, as none of these directly address the access and adaptability concern raised by the Council, I find them not to be relevant to the consideration of this issue.

Conclusions

24. For the reasons given above I have found that the development would not be harmful to the character and appearance of the area or the living conditions of either the occupiers of the neighbouring properties or the development. However, I have found that the development would provide an inadequate amount of off-street parking, which would unacceptably add to the on-street parking pressure in the area. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

² PPG Paragraph: 009 Reference ID: 56-009-20150327