
Appeal Decisions

Site visit made on 20 June, 2017

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: 18th July, 2017

Appeal A Ref: APP/D1590/W/17/3170982
315 Station Road, Westcliffe-on-Sea, SS0 8SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Alain Brandajs – Belgys Property Services against the decision of Southend-on-sea Borough Council.
 - The application Ref: 16/01134/OUT dated 20 June, 2016 was refused by notice dated 7 September, 2016.
 - The development proposed is redevelopment of commercial premises currently operating as an open car wash to form 6 No. residential town houses.
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Appeal B Ref: APP/D1590/W/17/3170992
315 Station Road, Westcliffe-on-Sea, SS0 8SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Alain Brandajs - Belgys Property Services against the decision of Southend-on-sea Borough Council.
 - The application Ref: 16/02006/OUT dated 3 November, 2016 was refused by notice dated 30 December, 2016.
 - The development proposed is redevelopment of commercial premises currently operating as an open air car wash to form 5 No. residential townhouses.
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Decisions

1. Appeal A is allowed and planning permission is granted for redevelopment of commercial premises currently operating as an open car wash to form 6 No. residential town houses at 315 Station Road, Westcliffe-on-Sea, SS0 8SP in accordance with the terms of the application Ref: 16/01134/OUT dated 20 June, 2016 and the plans submitted with it, subject to the conditions set out in the schedule to this decision.
2. Appeal B is dismissed.

Procedural matters

3. As set out above there are two appeals on this site. I have considered each proposal on its own merits, but to avoid duplication I have dealt with the schemes together, unless otherwise indicated.
 4. Both proposals are in outline, with access, appearance, layout and scale before me now, and landscaping reserved for future consideration.
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5. The appellant has submitted a revised plan in relation to Appeal A. I have considered whether any party would be prejudiced by my taking it into account, and I have concluded that they would not. I have therefore considered it in reaching my decision on that appeal.

Main Issues

6. The main issues are:-
- the effect on the character and appearance of the area;
 - the effect on the living conditions of future occupiers in respect of outdoor amenity space and accessibility and adaptability;
 - whether the development would make adequate provision for parking (Appeal A only); and
 - whether the development makes adequate provision for the use of renewable energy.

Reasons

Character and Appearance

7. The appeal site is a narrow strip of land on the north side of Station Road, formerly a garage, now used for a hand car washing business. It backs onto the railway line running along the north side of Station Road. The south side of the road facing the site is characterised by three storey mansion blocks of traditional design incorporating shops at ground floor level.
8. The proposal relating to Appeal A is for six houses set in two terraces of three, with integral garages, and terraces at roof level. They would occupy the full width of the site, with a narrow strip of space to the rear and sides, and would sit on the back edge of the pavement. They would be over two storeys in height due to the rooftop terraces, and the Council does not raise any objection to their scale and massing. It appears to me that this scale and massing would provide enclosure to the street and a balance to the mansion blocks opposite. As the mansion blocks have a limited hinterland around them, the high proportion of site coverage of the proposed dwellings, would also echo their built form and relationship to the street without appearing excessively cramped.
9. I have had regard to the findings of the Inspector in a previous appeal relating to the site¹, where he found that the proposal, which covered less of the site than the current proposed dwellings, would appear squeezed in. However, the previous proposal was for eight houses of three storeys, giving a much more crammed-in appearance to the development of the site than the currently proposed six houses, and the circumstances of the cases are therefore rather different. This previous decision does not therefore cause me to alter my conclusion that the proposed form of development in Appeal A would not be harmful to the character and appearance of the area.
10. The design of the buildings, through the regular rhythm of doors and windows does lend some articulation to the street frontage, which I conclude would adequately break up the mass of the buildings, and which could be reinforced by the materials and detailing of those elements. There is, similarly, some rhythm to the rear elevation, where smaller windows would reduce the effects

¹ APP/D1590/W/15/30168028

of noise from the railway. Although the flank elevations lack features, the two blank elevations will be facing each other across the central access and not particularly visible, while effect of the outward facing elevations would be limited due to their relatively small depth. I conclude therefore that the design of the proposed dwellings would not be particularly harmful to the character and appearance of the area.

11. The five houses proposed in relation to Appeal B would be spaced out along the width of the site, and, roughly square in footprint, would have some outdoor space to the rear and flank, including a parking space. Although comparisons have been made by the appellant with an approved scheme for four semi-detached houses, I have assessed this case on its own merits.
12. While the detached houses would be of three storeys, and collectively present some mass to the street frontage, the gaps between them would mean that they would present a weak counterpoint to the solidity of the mansion blocks on the other side of the street. The front boundary walls and gates, with relatively long runs between front doors and adjoining small windows, would combine to present a relatively inactive frontage which would not reflect the shops and residential entrances of the buildings opposite.
13. Although existing gables are visible on the semi-detached houses on Britannia Road, and buildings on the side roads joining Station Road, these are of traditional form. The proposed distinctive, cruciform and steeply pitched roof form would present sharp gables on every frontage of the houses, and would as a result appear atypical and obtrusive in the street scene. Overall, therefore, the proposed houses would stand out as harmfully odd and conspicuous in the context of the character and appearance of the area around them.
14. I conclude therefore that the proposals relating to Appeal A would comply with the provisions of policies KP2 of the Council's Local Development Plan Core Strategy 2007 (the CS), which seeks development which respects the character and scale of the existing neighbourhood; policy CP4 of the CS, which, similarly, seeks development which respects the scale and nature of existing development; and with policy DM1 of the Development Management Document 2015 (the DMD), which seeks development which adds to the overall quality of the area and respects the character of the site and its local context. They would also comply with the advice contained within the adopted Design and Townscape Guide (SPD1) which recognises that the best use should be made of land, and advises that developments should have a positive relationship to context, reinforce local distinctiveness and seek to enhance the character of an area.
15. For the reasons given above however, Appeal B would fail to comply with these policies and advice.

Outdoor Amenity Space and Adaptability and Accessibility

16. The development plan does not offer guidance on the amount of outdoor amenity space which would be adequate in particular circumstances. However, policy DM8 of the DMD requires developments to make provision for usable private outdoor amenity space for intended occupiers, while policy DM3 seeks to resist development on infill sites where it would create a detrimental impact on the living conditions of future residents. Although the appellant has

indicated that the intended market for the proposed dwellings in either scheme would be for first time buyers, retired couples or single person households rather than families, the fact that they contain two bedrooms means that family use cannot be ruled out, thereby adding weight to the need for adequate outdoor amenity space.

17. Although there is some dispute between the parties as to the exact size, the dwellings provided by the proposal relating to Appeal A would each have a amenity space in the form of roof terrace at second floor level with a sitting out area and some additional space. It appears to me that, at around the same size as the footprint of the dwelling, this would be reasonably sized. The terraces would be separate from, but relatively close to the main living areas at first floor level, and I conclude that these would provide a reasonably convenient and appropriate outdoor amenity space of a kind which is seen to work successfully elsewhere in urban settings, including for family housing.
18. The Council has drawn my attention to a previous appeal relating to the site², in which the Inspector agreed with the advice of the Council's SPD1 that balconies and terraces could provide additional private amenity space, but that this should normally be in addition to a larger area of amenity space usually provided at ground level. As, however, in that case the proposal was for enclosed balcony spaces to supplement very small ground floor amenity space, the circumstances of the case are different. It does not therefore cause me to alter my conclusions on the issue.
19. The dwellings provided by the Appeal B proposal would have a relatively small amount of amenity space at ground floor level, including a narrow strip of land to the rear of the buildings. Even were this strip to be included in the assessment of the amount of amenity space, as it would be narrow, used for bin storage, and confined between the rear boundary of the site and back of the dwellings, it would not be particularly usable or of an appropriate standard. As the main area of space to be provided would be adjoining a car parking space, and set between the high boundary treatments used to screen the development from the road and the railway line, it would be likely to be of an enclosed and shaded nature, and therefore not of appropriate quality. I do not consider that public amenity spaces in the area would adequately meet the need for private use for activities such as sitting out, drying or play.
20. Appeal B would therefore fail to comply with policies DM3 and DM8 of the DMP, and also with the provisions of policies DM1 of the DMP and policies KP2 and CP4 of the CS in their aspirations to secure a high standard of design. However, for the reasons given above, I conclude that Appeal A would comply with these policies.
21. The Council is concerned that neither appeal proposal contains information demonstrating that the proposed dwellings are capable of meeting the National Technical Housing Standards in relation to building regulation M4(2) – "accessible and adaptable dwellings". As, however, this is an optional requirement of the building regulations, which is capable of being secured by condition, I conclude that the absence of information at this stage would not weigh against the proposals.

² Ref APP/D1590/W/15/3136624

Parking Provision

22. In respect of the dwellings to be provided by the Appeal A scheme, the Council has indicated its concern that the dimensions of the garages to be provided will fall short of adopted policy and will not provide satisfactory off-street parking spaces. As however, they would meet the width requirement of 3 m, and as a length of 5 or 5.5 m would be sufficient for parking provided that there was no additional use for domestic storage, it appears to me that they would be capable of satisfactorily accommodating parking if restricted to that use by way of condition. This would be supported by the removal of the rear walls of the garage, as indicated on the revised ground floor plan submitted by the appellant.
23. While therefore the garage provision in the Appeal A scheme would technically fail to meet the requirements of policy DM15 of the DMD, adequate parking provision would be capable of being secured by condition, and this would therefore not weigh significantly against the scheme overall.

Renewable Energy

24. The Council has expressed concern that both proposed developments fail to provide adequate information regarding the use of renewable energy resources, which would have a significant impact on the design and appearance of the scheme and its effect on the surrounding area. However the appellant has indicated a range of possible approaches to meet the development plan policy requirements in relation to renewable energy, which are set out in policy DM2 of the DMP, which seeks development which contributes towards minimising energy demand, and policy KP2 of the CS, which seeks development which achieves a reduction in the use of resources. As a result, therefore, I concur that this is a matter which is capable of being resolved by condition to secure compliance with these policies, where I am minded to allow the appeal.

Other Matters

25. Neighbouring parties have raised a number of concerns in relation to the proposals, some of which have been dealt with in the consideration of the main issues. It has been suggested that the proximity of the site to the railway and the overhead power cables, pressure waves, noise etc. of the operation of the railway would have a harmful effect on the living conditions of future occupiers. However this has not been raised as a concern by the Council, and no technical evidence has been put before me to suggest that such harm would be likely.
26. Concerns have been raised about additional pressure on the sewerage, telephone and internet systems, but no technical evidence has been put forward to support this argument. Alternative uses for the site have been suggested by one resident, but these are not matters for my consideration. Although wildlife may make use of the railway land, the appeal site is mainly hard surfaced, and its loss is likely to have little effect in that respect. The proposed dwellings in both schemes would be set at a sufficient distance from dwellings facing them across Station Road not to have a harmful effect on light levels reaching those dwellings or on the privacy of their occupiers.
27. Part of Pembury Road, which runs from Station Road down to the Western Esplanade, is in The Leas Conservation Area. The development of houses in

both schemes would be visible looking up Pembury Road. I have had regard to the effect of the developments on the designated heritage asset, and conclude that any development on the appeal site would be viewed only looking out of the conservation area, in a limited way between the substantial buildings on Station Road, and that the view would diminish with distance from Station Road. The current low level and utilitarian buildings on the appeal site do nothing to enhance the setting of the Conservation Area.

28. The terraced and parapetted dwellings proposed in relation to Appeal A would not be likely to draw attention to themselves, and would be likely to appear as a layer in the backdrop to the view, with the houses of Britannia Road visible above them. The proposal would therefore have a minimal effect on the character of the area, which would not amount to harm. The Appeal B buildings would be likely to be more conspicuous in this view, and to have more harm, although I conclude that that harm would be less than substantial. As, however, I am not minded to approve Appeal B, it is not necessary to carry out a balancing exercise in relation to this harm.

Conclusion

29. For the reasons given above, therefore, and taking into account all other matters raised, I conclude that the Appeal A should be allowed, and Appeal B dismissed.

Conditions in relation to Appeal A

30. The Council has suggested a list of conditions on which the appellant has had an opportunity to comment and to which I have had regard. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act. In the interests of clarity, I have added a condition requiring implementation of the scheme in accordance with the approved plans.
31. I have added a condition requiring approval of facing materials to be used in the interests of protecting the character and appearance of the area. I have added a condition requiring that the dwellings comply with the optional requirements of the building regulations for accessibly and adaptable dwellings, in the interests of the living conditions of future occupiers.
32. I have added a condition relating to parking, to ensure that adequate provision is made, in the interests of preventing parking provision and protecting highway safety. A condition for the implementation of the approved landscaping scheme is added in the interests of protecting the character and appearance of the area. The Council has suggested that permeable materials shall be used for hard standings, but it appears to me that this is a requirement which would be swept up in the approval of landscaping details, and accordingly I have not covered it in a separate condition.
33. I have added a condition requiring the submission of a scheme for the use of renewable energy in the scheme to minimise the environmental impact of the development through efficient use of resources. A condition is also added in relation to surface water drainage, in the interests of securing satisfactory sustainable drainage for the development. Details of and implementation of an acoustic fence are required in the interests of protecting the living conditions of future occupiers of the approved dwellings. In the interests of protecting the

living conditions of neighbouring occupiers, conditions are added relating to the hours of work, hours of loading or unloading and to secure a Construction Method Statement.

34. The National Planning Policy Framework is clear at Paragraph 200 that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. No such justification has been put before me, and I have not, therefore, attached such conditions.

S J Buckingham

INSPECTOR

SCHEDULE OF CONDITIONS RELATING TO APPEAL A

- 1) Details of the landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: P01B; P02B; P03B; P04B.
- 5) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwellings 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.
- 6) No dwelling shall be occupied until the Building Regulations Optional requirement M4(2) (accessible and adaptable dwellings) has been complied with.
- 7) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. P01 Revision B for 6 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 8) All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) 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.

- 10) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) Occupation of the approved dwellings shall not take place until details of an acoustic fence to the north, west and east boundaries of the site shall have been submitted to and approved in writing by the local planning authority. The fence shall be installed in accordance with the approved details before the dwellings are occupied and retained thereafter.
- 12) Demolition or construction works shall take place only between 07.30 and 18.00 on Monday to Friday, 08.00 and 13.00 Saturday, and shall not take place at any time on Sunday or on Bank or Public Holidays.
- 13) Loading or unloading of goods or materials during demolition or construction works shall be taken at or despatched from the site only between 07.30 and 18.00 on Monday to Friday, 08.00 and 13.00 Saturday, and shall not take place at any time on Sunday or on Bank or Public Holidays.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) details of drainage/surface water, including foul drainage, to ensure the proposal does not discharge onto Network Rail land.
 - i) measures to control the emission of dust and dirt during construction;
 - ii) scaffolding;
 - iii) piling;
 - iv) lighting;
 - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vi) future maintenance of the site.