



Appeal Decision

Site visit made on 10 September 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Appeal Ref: APP/D1590/W/19/3232931

**Land to the rear of 21 St Leonards Road, Southend-on-Sea, Essex
SS1 2HG**

- 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 Martin Saunders against the decision of Southend-on-sea Borough Council.
 - The application Ref 19/00694/FUL, dated 10 April 2019, was refused by notice dated 21 June 2019.
 - The development proposed is a new House in Multiple Occupation with five lettable rooms, communal facilities and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for a new House in Multiple Occupation with five lettable rooms, communal facilities and landscaping at land to the rear of 21 St Leonards Road, Southend-on-Sea, Essex SS1 2HG in accordance with the terms of the application, Ref 19/00694/FUL, dated 10 April 2019, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. I have used the site address shown on the appeal form in the banner heading because it identifies the appeal site more accurately than the site address shown on the planning application form.
3. The description of development shown on the Council's decision notice is different from the description shown on the planning application form. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the description shown on the planning application form in the banner heading and the decision.

Main Issues

4. The main issues are the effect of the proposed development on (i) the living conditions of the occupiers of No 21A St Leonards Road, with particular regard to privacy; and (ii) pressure for on-street parking with respect to highway safety.

Reasons

Living conditions

5. The appeal site is located in a high density residential area which predominantly consists of terraced houses. The rear gardens are fairly small and there is mutual overlooking of gardens due to the built-up nature of the area. The 2 storey terrace at Nos 1-3 Forest Avenue is positioned to the rear of Nos 15-19 St Leonards Road at a lower land level.
6. The proposed 2 storey House in Multiple Occupation ('HMO') would attach to the side elevation of No 3 Forest Avenue, which would form a wider terrace. Whilst the rear habitable windows of the proposed building would afford views towards the rear garden and the rear habitable windows of No. 21A St Leonards Road, the appeal site is located in a built-up area where a degree of mutual overlooking is to be expected.
7. The back-to-back distance between the proposed building and No. 21A would be similar to the relationship of other properties in the area, including the relationship between Nos 1-3 Forest Avenue and Nos 15-19 St Leonards Road. In this context, the proposed building would provide a satisfactory level of separation. Furthermore, the land level of the proposed building would be lower than the level of No 21A, which would limit the extent of overlooking from the proposed development into the rear garden and rear windows of No. 21A.
8. For these reasons, I conclude that the proposed development would not cause a significant loss of privacy to the occupiers of No 21A St Leonards Road and therefore there would not be harm to the living conditions of the occupiers of the neighbouring property. The proposal would therefore comply with Policy CP4 of the Southend-on-Sea Core Strategy (2007) ('CS'), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) ('DMD'), the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) ('DTG') and paragraph 127 of the National Planning Policy Framework ('Framework'), which, amongst other things, seek to protect the amenity of immediate neighbours.
9. The Council has cited Policy KP2 of the CS in the reason for refusal, however the policy does not refer to the living conditions of neighbouring properties and so it is not relevant to the first main issue.

Highway safety

10. The Council states that the development plan does not include vehicle parking standards in respect of proposed HMO's. The proposed development includes no on-site parking spaces and I have had regard to the objection from the highway authority. However, taking into account the sustainable location of the appeal site close to shops, services and passenger transport facilities in the town centre, it is likely that car ownership by future occupants of the proposed HMO would be low.
11. During my site visit I observed that on-street parking spaces were available in surrounding residential streets, including St Leonards Road, Stanley Road and Horace Road, which are subject of parking controls. Whilst I acknowledge that there may be more on-street parking in the evening and at weekends, I saw that traffic flows were modest and there was little evidence of unsafe parking of vehicles on pavements or close to road junctions. The proposed development would not cause a significant increase in pressure for on-street parking in the area. There is no substantive evidence before me to show that the proposed development would cause harm to highway safety.

12. For the above reasons, I conclude that the proposed development would not significantly increase pressure for on-street parking in the area and therefore it would not have a harmful effect on highway safety. The proposal would therefore comply with Policy CP3 of the CS and Policy DM15 of the DMD, which, amongst other things, seek to widen travel choice and prioritise and promote viable alternatives to private vehicle use. The proposal would also comply with paragraph 109 of the Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

13. I have had regard to the concerns raised by the occupiers of neighbouring properties, which, in addition to the above matters, include: the position of the refuse store and cycle shed in close proximity to bedroom windows at Queensway Lodge; loss of privacy to Queensway Lodge; the development would spoil the uniqueness of the Victorian terrace and alter the building line; already lots of HMO's in the area; lack of amenity for future occupiers of the HMO; concerns about tenants that will live in the HMO; disruption during construction works; and loss of garden and mature greenery.
14. The proposed development would be of a modest scale and would not generate a significant amount of waste. Furthermore, the proposed bin store would not be so close to the habitable windows of Queensway Lodge that odour from the bins would be noticeable to the occupiers of the neighbouring properties. Taking these factors into account, the proposal would not cause nuisance to the occupiers of the neighbouring properties by reason of odour.
15. The plans show that the north-western facing side parts of the 2 storey front bay would have the lower parts of the windows fitted with obscured glazing, which would restrict views into the habitable windows of Queensway Lodge. There would be views of the balconies of Queensway Lodge from the front windows of the proposed building, however this would not cause a significant loss of privacy due to the sizeable separation distance that would be provided.
16. The design, scale and form of the proposed building would be in keeping with the adjoining terrace and it would reflect the existing building line. The Council did not object to the appeal scheme on this basis.
17. The Council has raised no objection to the principle of an HMO at the appeal site and there is no substantive evidence before me to show that there would be an overconcentration of HMO's in the area. Furthermore, the Council is satisfied that the proposed development would provide adequate living conditions for future occupiers and I see no reason to disagree. There is no substantive evidence that future occupiers of the proposed HMO would cause anti-social behaviour in the area.
18. There is potential for some disruption during construction works, however the impacts could be adequately mitigated through the imposition of a condition to require the submission of a Construction Management Plan for approval by the Council and a condition to restrict the hours of construction.
19. The proposed development would be built on an area of garden, however the Preliminary Ecological Assessment shows that the appeal site has limited

ecological value and it suggests biodiversity enhancements, which could be secured through the imposition of a condition.

20. Thus none of these other considerations, on their own or in combination, alter my view.

Conditions

21. The Council has suggested 12 conditions which I have considered against the Framework and the advice in Planning Practice Guidance, amending where necessary in the interests of clarity and precision.
22. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
23. Conditions dealing with the materials to be used in the external surfaces of the development and the further approval and implementation of a hard and soft landscaping scheme and refuse and cycle storage are necessary to maintain the character and appearance of the area. Furthermore, cycle storage provision is necessary to encourage alternative sustainable transport choices, in accordance with Policy CP3 of the CS and Policy DM15 of the DMD.
24. Conditions relating to renewable energy sources and water efficient design are necessary to minimise the environmental impact of the proposed development, in accordance with Policy KP2 of the CS and Policy DM2 of the DMD.
25. A condition to require the development to be completed in accordance with the recommendations in the Ecology Appraisal¹ is necessary to ensure that the proposal conserves biodiversity at the appeal site, in compliance with Policy KP2 of the CS.
26. Conditions restricting the hours of construction and requiring the submission and implementation of a Construction Method Statement ('CMS') are necessary to protect the living conditions of the occupiers of neighbouring properties during construction works. Furthermore, given the location of the site close to a busy roundabout and the absence of on-site parking facilities and a direct vehicular access to the site, the condition requiring the submission and implementation of a CMS is necessary in the interests of highway safety. This is a pre-commencement condition because the carrying out of construction works without a prior agreed CMS may have an adverse impact on highway safety and the living conditions of the occupiers of neighbouring properties.
27. In order to protect the privacy of the occupiers of the neighbouring properties at Queensway Lodge, a condition is necessary to require the north-western facing windows of the front 2 storey bay of the proposed development to be fitted with obscure glass and permanently fixed closed (except for any part of the windows which are located a minimum of 1.7 metres above internal floor level).
28. Furthermore, I have imposed a condition to require that the proposed HMO is limited to a maximum occupancy of 6 persons in the interests of providing acceptable living conditions for future occupants.

¹ Carried out by ASW Ecology reference ASW/KPSL/106/22/2019 dated March 2019.

Conclusion

29. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed and planning permission be granted subject to the conditions contained in the attached Schedule.

C Osgathorp

INSPECTOR

Schedule of conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

556-101 Rev-03; 556-102 Rev-03; and 556-103 Rev-04.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the adjoining building at Nos. 1-3 Forest Avenue.
4. Notwithstanding the details shown on the approved plans, the development hereby approved shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping for the site. This shall include details of the number, size and location of the trees and shrubs to be planted together with a planting specification, details of the treatment of all hard and soft surfaces and all means of enclosing the site. All planting in the approved landscaping scheme shall be carried out within the first available planting season following first occupation of the development hereby approved. Hard landscaping and means of enclosure shall be implemented in full accordance with the approved scheme prior to occupation of the development hereby approved.
5. Notwithstanding the details shown on the approved plans, the development hereby approved shall not be occupied until details of refuse storage and covered and secure cycle storage for at least 6 cycles have been submitted to and approved in writing by the Local Planning Authority and the approved refuse and cycle storage facilities have been provided in full accordance with those approved details. The storage facilities shall be made available for use by the occupiers of the development and shall be retained as such in perpetuity.
6. The development hereby approved shall not be occupied until a scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources has been submitted to and approved in writing by the Local Planning Authority and implemented in full accordance with the approved scheme. This provision shall be made for the lifetime of the development.
7. The development hereby approved shall not be occupied until water efficient design measures to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption) have been installed. The water efficient design measures shall be retained in perpetuity thereafter.
8. The development hereby approved shall be undertaken and completed in accordance with the findings, conclusions and recommendations outlined at paragraphs 5.1 to 5.3.4 on pages 17-19 of the approved Ecology Appraisal undertaken by ASW Ecology reference ASW/KPSL/106/22/2019 dated March 2019.

9. Demolition or construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.
10. The north-western facing ground floor and first floor windows of the front 2 storey bay (as indicated on drawing No. 556-103 Rev-04) of the development hereby approved shall be permanently glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and permanently fixed shut, except for any part of the windows which are located a minimum of 1.7 metres above internal floor level.
11. No development shall commence, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be fully adhered to throughout the construction period of the development. The Statement shall provide, amongst other things, 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
 - v) measures to control the emission of dust and dirt during construction.
 - vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.
12. The development hereby permitted shall be occupied by a maximum of 6 persons.