
Appeal Decision

Site visit made on 21 January 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2020

Appeal Ref: APP/D1590/W/19/3239904

Highlands Court, London Road, Leigh-On-Sea, SS9 2SL

- 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 Hollowell Ltd against the decision of Southend-on-sea Borough Council.
 - The application Ref 19/00600/FUL, dated 14 March 2019, was refused by notice dated 6 June 2019.
 - The development proposed is demolition of the existing garages and utility building and erection of 6 flats, alterations to the area of open space, replacement utility building and associated works to the internal access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I undertook an unaccompanied site visit which was possible as the site is publicly accessible. I was also able to access a property along Gordon Road, to inspect the site from the rear.
3. The appellant submitted additional drawings with the appeal, primarily to visualise the scheme. This information does not materially change what is being proposed. The Council, and any interested parties, have had the opportunity to comment on this information as part of the appeal process. It can therefore be accepted without prejudicing the interests of any parties.

Main Issues

4. These are:
 - i) The effect on the living conditions of the occupants of neighbouring residential properties along Gordon Road, with particular regard to outlook and visual intrusion;
 - ii) Whether or not an acceptable standard of living accommodation would be provided for future occupants of the development, with particular regard to outlook and noise;
 - iii) The effect on the living conditions of existing occupants of Highlands Court, in relation to outlook, the provision of waste storage and open space; and
 - iv) The effect on the character and appearance of the area.
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Reasons

Living conditions - Gordon Road.

5. The existing residential buildings along Gordon Road benefit from gardens of a moderate scale, typical of residential properties in suburban areas. The proposed 2-storey building would sit immediately to the rear of some of these properties. Because of its bulk, mass and immediate proximity to the common boundary the proposal would have an imposing and overbearing presence, when viewed from these neighbouring properties. The proposal would diminish the outlook from these gardens, to a significant degree.
6. The harm would be exacerbated by the inclusion of windows on the rear elevation of the proposed building. Whilst these would be high level and would not therefore lead to overlooking, they are sited directly on the boundary and would still be visually intrusive. The detailed design of the rear elevation of the building does not overcome the harm resulting from the size of the building.
7. There is an existing garage building on this part of the site but this only rises to one storey in height. It is not significantly higher than a typical garden wall. This does not justify the increase in bulk, scale and mass being proposed here.
8. The proposal would not result in a harmful loss of daylight or sunlight and it is suggested that similar existing relationships between buildings exist in the surrounding area. Furthermore, the existence of trees and outbuildings within the affected gardens would be likely to partially obscure the proposed building. However, these do not amount to persuasive reasons to permit the development, in the face of the harm identified.
9. The proposal would therefore lead to unacceptable harm to the living conditions of the residents of neighbouring residential properties along Gordon Road, through visual intrusion and loss of outlook from their gardens. In this respect the proposal conflicts with policies KP2 and CP4 of the Southend on Sea Core Strategy Development Plan Document (2007) ("Core Strategy"), together with policies DM1 and DM3 of the Southend on Sea Development Management Document (2015) ("Development Management Document") which seek, amongst other things, to maintain the amenity of residential areas.
10. The proposal would also conflict with advice set out in the Council's Design and Townscape Guide Supplementary Planning Document 2009 (SPD) which states that new development should not be unduly obtrusive to adjacent properties. The objectives of this document are consistent with the development plan policies cited above.

Living conditions - future occupants

11. The flats at ground floor level within the proposed building would be set on one floor. Whilst the internal floor level would be slightly raised, the main living area would still face directly out on to the car parking area in front of the proposed building, beyond a small landscaped area.
12. There is an intention to design this parking area as a 'home-zone' space, with landscaping features being introduced within this area to help soften its appearance. The parking spaces would be occupied by residents of the affected flats, which could be secured by condition.

13. However, the primary purpose of this area would still be for parking and vehicular turning, which would ultimately be reflected in its appearance. The outlook from each main window in the ground floor flats would be dominated by this view. Future residents would also experience noise and disturbance from comings and goings associated with the car park, including from non-residents accessing the block on foot. Whilst it is argued these events would be intermittent, they would still be noticeable throughout the course of the day. Given the very close proximity of the ground floor flats to the turning area, the proposed planting, which could be secured by condition, would not effectively address the poor outlook from the proposed ground floor flats.
14. Whilst other existing ground floor flats within Highlands Court also look out on to communal areas, in many cases there is a significant proportion of open, landscaped space directly adjacent to the windows in question. That would not occur here. Whilst home zones and mews type development are a well established design concept; encouraged within the SPD and endorsed in other appeal decisions, in the detailed circumstances of this case the proposed arrangement would not be acceptable.
15. In consequence, the living conditions within the ground floor flats would be unacceptable, with inadequate outlook provided to this part of the development and the potential for harm through noise and disturbance. This harm cannot be overcome by planning conditions. In this respect the proposal conflicts with policies KP2, CP3 and CP4 of the Core Strategy and DM1, DM3 and DM8 of the Development Management Document, together with the relevant parts of the SPD which, amongst other things, seek to achieve a high-quality internal environment where new dwellings are proposed.

Living conditions - Highlands Court

16. The proposed replacement refuse store would be positioned on existing soft landscaped space around the existing block of flats at Highlands Court. The area between Highlands Court and the new building would be reconfigured to create a courtyard.
17. Whilst the new refuse store would be set slightly closer to the existing ground floor flats than the existing bin store, there would be sufficient open space between the affected windows and the bin store to avoid any significant harm through loss of outlook.
18. There would be a small loss of landscaped space to create the new bin store along with other facilities associated with the development. However, Highlands Court would still retain a relatively large amount of open space around it. Subject to appropriate landscaping of the proposed reconfigured courtyard area taking place, which could be secured by condition, this loss of open space would not be materially significant.
19. The bin store would be very close to its existing site. The length of time it would take to get to and from the bin store from flats in Highlands Court would be broadly similar to the current position; in some cases it would be reduced. Consequently, whilst the carry distance would in some cases exceed the Council's desired guidelines, the bin store would still be reasonably accessible. The proposal would not therefore lead to an increased risk of waste being dumped informally within the complex.

20. Overall there would be no harm to the living conditions of the residents of Highlands Court through changes in outlook, the provision of waste storage and open space as a consequence of this development. The refuse arrangements would be appropriate for both existing and future occupants of the site. In this respect the proposal complies with policies KP2, CP3 and CP4 of the Core Strategy and DM1, DM3 and DM8 of the Development Management Document, together with the relevant parts of the SPD which, amongst other things, seek to maintain the amenity of residential areas where new development is proposed.

Character and Appearance

21. This infill site sits well away from the main road and is surrounded by residential dwellings and existing blocks of flats. The new building would broadly follow the architectural form of the existing apartment blocks within Highlands Court. Its overall height and scale would follow the precedent set by surrounding residential buildings.
22. The new building has a contemporary design with large windows. In this respect it would appear typical of modern apartment buildings and would not detract from any prevailing character. It has been sited in a way that makes the most effective use of land in an urban area. It would respond appropriately to the existing apartment blocks, with a new courtyard area being created. As such, it would not have an unduly cramped appearance.
23. There would be a small loss of landscaped space, as noted previously. However, additional landscaping and planting could be undertaken in response to planning conditions, to ensure an acceptable standard of development. The proposal would not detract from the quality of surrounding townscape, in this respect.
24. The front elevation of the building would be of a similar height to the surrounding apartment blocks. However, it would be set a reasonable distance away from them. In this respect, the visual impact of the new building on its immediate surroundings would be acceptable.
25. Concerns are expressed about the siting of this building, and in particular its appearance when viewed from Gordon Road. However, the harm that it would cause relates to the living conditions of existing and proposed residents. There would be no unacceptable harm to the character and appearance of the area, and no conflict with policies KP2 and CP4 of the Core Strategy, nor DM1 and DM3 of the Development Management Document which seek, amongst other things, to ensure that new development respects the character of the site. In this respect the proposal does not conflict with the SPD, which shares similar objectives.

Other Matters

26. The Council's fourth reason for refusal states that it has not been demonstrated that the proposed development would meet building regulation M4 (2) accessibility standards. However, the appellant maintains that it would be possible to do so at the detailed design stage. In the absence of any convincing evidence that this would not be possible given the layouts proposed, it would be reasonable to deal with this matter by way of planning condition were the proposal to have otherwise been acceptable.

27. The proposal would provide 6 new flats within an existing urban settlement. It is close to public transport links, services and facilities. This would contribute to the Council's supply of housing as a windfall site, therefore helping to achieve the objective, set out in the Framework, of delivering a sufficient supply of homes. Landscaping measures, which could potentially enhance the appearance and living environment of the wider site, could be secured by condition. Furthermore, sustainability features would be incorporated into the build.
28. The site would be located on previously developed land, making good use of an underutilised site. The redevelopment of this brownfield site would accord with the Framework, which directs that substantial weight should be given to the value of using such sites for homes. As a small site, it could be developed quickly, and there would be economic benefits through construction work and long-term spending by future residents in the local economy. The proposal would also potentially lead to additional council tax receipts, community infrastructure levy payments, and a new homes bonus, which are local finance considerations that weigh in favour of the proposed development.
29. However, the Framework also requires that places should achieve a high standard of amenity for existing and future users. That would not be achieved here. For this reason, the proposal conflicts with the requirement in the Framework to achieve well-designed places and I also attach substantial weight to the harm that would arise, in consequence. Overall, the considerations that weigh in favour of the proposed development do not outweigh the identified harm. The proposal conflicts with the development plan, when it is considered as a whole, and the presumption in favour of sustainable development does not apply.
30. Concerns are also expressed about the conduct of the Council, including the pre application advice it provided. However, this does not outweigh the material harm identified in this decision.

Conclusion

31. The proposal is acceptable in terms of its effect on the character and appearance of the area and the living conditions of existing residents of Highlands Court. However, there would be unacceptable harm to the living conditions of existing residents of Gordon Road, and to future occupants of the development as a consequence of the lack of outlook and potential for noise disturbance. Overall, the proposal conflicts with the development plan, when it is considered as a whole, and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR