
Appeal Decisions

Site visit made on 21 July 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 August 2020

Appeal A Ref: APP/D1590/W/20/3245699

Rear of 1 Shoebury Avenue, Shoeburyness, Southend-on-Sea SS3 9BH

- 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 A Thorpe and Mr H Hyde against the decision of Southend-on-Sea Borough Council.
 - The application Ref 19/01497/FUL, dated 9 August 2019, was refused by notice dated 28 October 2019.
 - The development proposed is redevelopment of old coal yard to provide five 2-bed houses, two 2-bed flats and one 1-bed flat including lift, with associated parking and amenity area along with cycle and refuse storage.
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Appeal B Ref: APP/D1590/W/20/3247377

Rear of 1 Shoebury Avenue, Shoeburyness, Southend-on-Sea SS3 9BH

- 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 A Thorpe and Mr H Hyde against the decision of Southend-on-Sea Borough Council.
 - The application Ref 19/02134/FUL, dated 21 November 2019, was refused by notice dated 7 February 2020.
 - The development proposed is redevelopment of old coal yard to provide five 2-bed houses, two 2-bed flats and one 1-bed flat including lift, with associated parking and amenity area along with cycle and refuse storage.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. The appeal schemes differ only in respect that for Appeal B certain windows on House 5 and the block of flats are notated as 'obscure glass', a set of French doors and Juliet balcony on the northern elevation of Flat 2 has been changed to an obscure glazed window, Flat 1 is shown as a 2 bed 3 person unit, any reference to electronic gates has been omitted, and the existing walls along the western and northern boundaries of the site are shown to be retained. The site plan was also corrected to show the inclusion of land to the north.
4. In its appeal statement the Council says that it is opposed to consideration of these variations, as the plans showing the differences detailed above (other than for correction of the site plan) were submitted late in the Council's consideration of application 19/02134/FUL (Appeal B), and the application was

not determined on the basis of the revised plans. However, I note that the revised plans were addressed in some detail in the Committee report, and the Council has therefore had the opportunity to comment upon them. They are relatively minor in nature and were made to try and address concerns raised with the earlier scheme. Having regard to these factors, I do not consider that interested parties would be prejudiced by my consideration of the plans, and I have taken them into account in my decision.

5. I have considered each proposal on its own individual merits. However, to avoid duplication I have dealt with the two schemes together except where otherwise indicated.
6. On both appeals I note that the roof plan for the block of flats does not include the roof over the lift and additional floorspace. I have assumed this to be an oversight and that the roof does extend over the lift and additional space as shown on the elevations.

Main Issues

7. The main issues in both appeals are the effect of the proposals on:
 - The character and appearance of the area
 - The living conditions of neighbouring occupants, with respect to overlooking, loss of privacy, and outlook
 - The living conditions of future occupants of Flat 1, with respect to space standards.

Reasons

Character and appearance

8. The area is characterised by terraced and semi-detached two storey houses fronting their streets in a tight knit pattern. The houses are mainly late Victorian/Edwardian in age and style, although there are examples of later infill development, including a terrace of 1960's style houses opposite the entrance to the site, flats adjacent to the parking area, and a bungalow adjacent to the western boundary of the site. The area is predominantly residential in nature with some other uses present, including commercial units further along Shoebury Avenue, and the appeal site itself as a coal yard.
9. The Council has no objection in principle to residential redevelopment of the site, and neither do I. However, with regards to the detailed layout of the schemes, in my view the proximity of the terrace of houses with the block of flats, combined with their size and height, would appear cramped and overdeveloped. This relationship would be seen in views along the access drive. Within the site, the proximity of the block of flats to Houses 4 and 5, with directly opposing principal windows, would also appear oppressive and harmful to the internal arrangement of the scheme and the occupants of those units.
10. The entrance to the development would appear dominated by parking and hardstanding. Views into the site would be interrupted by the two parking spaces at the end of the drive. Vehicles using these spaces would be unable to turn within the site and would therefore have to reverse back down the drive, which is less than ideal. These two spaces and the parking space and refuse

store at the side of the drive would leave almost no opportunity for landscaping to soften the entrance. I am less concerned about the layout of the existing parking area than the Council, as this is already in use for such purposes and there would be some opportunity for landscaping along the street frontage. However, overall the amount of parking and hardstanding, the difficulty of use, and the lack of landscaping is a further indication of the overdevelopment of the site.

11. Although the existing site does not contribute visually or functionally to the mainly residential character of the area, national planning guidance¹ advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. I consider that because of the excessive amount of building mass proposed, and the resultant effect that has on layout and appearance, neither scheme would achieve these design objectives.
12. Consequently, I conclude that both schemes would harm the character and appearance of the area, contrary to policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007, and policies DM1 and DM3 of the Development Management Document 2015, which requires development to respond positively to local context and not lead to over-intensification. For the same reasons they would also conflict with the more detailed guidance given in the Southend-on-Sea Design and Townscape Guide 2009.

Living conditions of neighbouring occupants

13. The Council's concerns relate to potential overlooking and loss of privacy to Archway Bungalow from the first floor rear windows of proposed Houses 1-4; and the effect on outlook for the properties in Shoebury Avenue and Wakering Avenue from the flank elevations of proposed House 1 and the block of flats respectively.
14. So far as Archway Bungalow is concerned, the proposed Houses 1-4 would be separated from the joint boundary by rear gardens of between approximately 8 and 13m in length, with a minimum distance between buildings of 13.25m. While this separation is not great, it is comparable to the garden lengths and separation of houses in Shoebury Avenue and Friars Street from Archway Bungalow. The existing brick wall along the joint boundary with the appeal site would be retained. As noted by the Council, this is approximately 2m high rather than the 3.5m high wall along part of the northern boundary. Although the first floor bedroom windows of the proposed terrace of houses would increase overlooking of Archway Bungalow to a degree, given the extent to which that property is already surveilled by neighbouring properties, I do not consider the change would be so great as to be materially harmful to the living conditions of its occupants.
15. I acknowledge that the outlook of neighbouring properties would also change, particularly that of 1, 3 and 5 Shoebury Avenue which would have the flank elevation of proposed House 1 across all or most of the ends of their rear gardens where at present they look out onto an open yard. However, the urban grain of the area is a tight one, with buildings being in close proximity to one another, and I do not consider this arrangement, tight though it is, as being

¹ National Planning Policy Framework, section 12: achieving well-designed places.

harmful to their outlook or oppressive within the context of the relationship between buildings in the area.

16. For the same reason I find that the relationship between the houses in Wakering Avenue and the block of flats would not be oppressive, the greater height of the building being compensated for by the slightly longer rear gardens of the neighbouring properties.
17. I conclude that on this issue, the living conditions of neighbouring occupants would not be materially harmed with respect to overlooking, loss of privacy or outlook, and would therefore comply with policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007, policies DM1 and DM3 of the Development Management Document 2015 and the advice contained in the Design and Townscape Guide 2009, which amongst other criteria seek to protect the living conditions of neighbouring residents.

Living conditions of future occupants

18. There is disagreement between the parties as to whether Flat 1 amounts to a 3 or 4 person dwelling. In Appeal A it is shown to have two double bedrooms, while in Appeal B it is shown to have one double and one single bedroom, although the room layout and floorspace are identical in both appeals.
19. The nationally described space standard² prescribes occupancy capacity based on floorspace. As both bedrooms in Flat 1 exceed 11.5m² in floorspace, they are classified as double bedrooms, with a capacity of 4 persons in total. Based on a capacity of 4 persons, Flat 1 at 66.7m² fails to meet the minimum standard for a 2 bed 4 person flat of 70m². This applies to both appeals, irrespective of how many bed spaces may be shown on the plans.
20. The appellant has suggested that if there is any uncertainty on this issue, the housing mix can be secured by condition. I disagree. While it may be possible to rearrange the internal space within Flat 1 to accord with the nationally described space standard, I am required to consider the plans as submitted. In both appeals Flat 1 fails to meet the standard and as a result I consider it would result in substandard living conditions for its future occupants. Consequently, the developments would conflict with policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 and policies DM1, DM3 and DM8 of the Development Management Document 2015, which require compliance with minimum residential standards.

Other Matters

21. The Council acknowledges that there is a lack of a five year housing land supply in the Borough. As such, the policies relating to housing must be considered out of date. In such circumstances paragraph 11 of the National Planning Policy Framework advises that permission should be granted unless certain criteria apply, one of which relates to any harm arising from a development being weighed against the benefits. While I acknowledge that the provision of eight additional units would be of benefit, particularly given the lack of housing supply, I consider that the adverse impacts of the appeal schemes would significantly and demonstrably outweigh the limited benefit to

² DCLG Technical housing standards – nationally described space standard, March 2015. These supersede the housing standards set out in Policy Table 4 of the Southend-on-Sea Development Management Document 2015.

housing supply, when assessed against the development plan and the policies in the Framework as a whole.

Conclusion

22. Although I have found no harm to the living conditions of neighbouring occupants, I have found that harm would be caused to the character and appearance of the area, and the living conditions of the occupants of Flat 1. Consequently, I conclude that both the appeals are dismissed.

Guy Davies

INSPECTOR