



Appeal Decision

Site visit made on 11 October 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2022

Appeal Ref: APP/D1590/W/21/3285658

71-73 Southchurch Road, Southend-On-Sea SS1 2NL

- 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 Sivasaravanan against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/00521/FUL, dated 10 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is described as 'demolish existing store to rear and erect a two-storey replacement store comprising of store area at ground floor level with cycle and bin stores, timber fence and gates to rear and one self-contained flat at first floor level with external staircase, alterations to elevations and install PV panels to side elevation.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of the neighbouring properties at 75 Southchurch Road and 71-73 Southchurch Road, in relation to outlook and privacy.

Reasons

3. The appeal property is a two-storey building which is occupied by a retail unit on the ground floor, fronting Southchurch Road, and three residential units above. The site also has a single storey detached building to the rear which is currently used for storage and is separated from the main building by a small alleyway. The proposal would replace this detached building with a new two-storey projection, adjoining the main property. This would be occupied by a store room and cycle store on the ground floor, along with a covered commercial bin store and loading area, and a 1 bedroom residential unit on the first floor, accessible via an external staircase from Essex Street.
4. The proposed development would extend beyond the rear elevation of the existing building, adjacent to an existing first floor window serving the living area, dining area and kitchen of flat 1 at 71-73 Southchurch Road. A daylight and sunlight report conducted by the appellant states that this window would not have a noticeable reduction in daylight levels, from the proposed development, focusing on the vertical sky component of the BRE guidance. However, due to the two-storey nature of the proposed development and its proximity to and substantial projection beyond this window on the rear elevation, the proposed development would result in a significant sense of

enclosure for the occupants of flat 1 when using the room served by this window. Although varying degrees of outlook may be common in urban areas, such as this one, Essex Street is relatively open and spacious, due to the presence of a surface car park to the rear, with the single storey nature of the existing rear building currently providing a generous outlook from the first floor rear window. Therefore, the proposal would result in a significant detrimental impact on the outlook from this window compared to the current situation.

5. Another window on the rear elevation of the existing building, to be covered by the proposed development, would be replaced by a window on the side elevation of the existing building, also serving the living area of flat 1. Therefore, this room would be dual aspect. However, whilst this side window would provide some additional outlook from and light into the room, it would not sufficiently mitigate the impact of the proposed development on the outlook from the rear window. Particularly due to the L-shape of the room, where the dining area and kitchen would not directly benefit from this new flank window.
6. Views into this rear window, serving the living area of flat 1, from the proposed external staircase and landing would be limited due to the presence of the proposed development itself which would block any direct views.
7. An existing first floor flank window, serving a kitchen at 75 Southchurch Road, would face the proposed development, sitting above the flat roof of the covered bin store. This window would be in close proximity to the side elevation of the proposed development and the timber balustrade alongside the external staircase, as shown on the proposed plans. However, the window is currently small and obscure glazed, offering a limited outlook for the occupiers. Therefore, the proposal would not have a detrimental impact on the outlook of the occupiers of the neighbouring property at No 75 when using the room served by this window. The existing obscure glazing and the proposed balustrade would also block views from the proposed external staircase and landing into this first floor window sufficiently.
8. Nevertheless, as the proposed development would harm the living conditions of the occupiers of Flat 1 within the building at 71-73 Southchurch Road, due to a loss of outlook when using their living room, it would conflict with Policies KP2 and CP4 of the Southend on Sea Core Strategy 2007 (the CS) and Policy DM1 of the Southend on Sea Development Management Document 2015 (the DMD). These policies collectively seek to ensure that new development respects and maintains the amenities of residential areas, protecting the immediate neighbours and surrounding area with regard to outlook and visual enclosure.
9. The proposal would be contrary to the National Planning Policy Framework (the Framework) which seeks to create a high standard of amenity for existing users. The proposal would also conflict with the Supplementary Planning Document 1 Design and Townscape Guide 2009, which states that new development must be designed so as not to be unduly obtrusive to adjacent buildings.

Other Matters

10. The appellant has stated that the proposed development would contribute to the local housing need, making effective use of existing development land within a residential area. The Council have also confirmed that they are not

able to demonstrate a 5 year supply of deliverable housing, with an appeal decision provided by the appellant indicating a 2.5 year housing land supply in June 2021. As the Council are unable to demonstrate a five year supply of deliverable housing, with a significant shortfall, the test in paragraph 11(d) of the Framework should be applied.

11. In the context of the development, I have found that the proposal would be contrary to Policies KP2 and CP4 of the CS and Policy DM1 of the DMD, resulting in significant harm to the living conditions of the occupiers of a neighbouring dwelling. The Framework requires planning decisions to create places that have a high standard of amenity for existing users and therefore supports the general aims of the Development Plan in terms of its impact upon neighbouring occupiers. Therefore, as I have found these policies to be generally consistent with the relevant aims of the Framework, I attach substantial weight to the conflict with them.
12. As stated by the appellant, the proposed development would add to the overall housing land supply and make efficient use of the land. However, given the scale of the scheme, any such benefits would be small. Therefore, whilst there is a significant shortfall in the housing land supply, given the harm that I have identified to the living conditions of the neighbouring occupiers, the adverse impacts of granting permission would significantly and demonstrably outweigh the limited benefits of one dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.
13. The Council have highlighted that the appeal site is located within the Zone of Influence for one or more European designated site, although details of the specific site or sites are not provided. Although not a reason for refusal, it states that new residential development, such as the appeal proposal, has the potential to cause disturbance to these European designated sites. Therefore, the development must provide appropriate mitigation in the form of a tariff, which the appellant has paid to the Council. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

14. For the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR