



Appeal Decision

Site visit made on 1 November 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/D1590/W/21/3289533

Rear of 1099 London Road, Leigh-On-Sea SS9 3JJ

- 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 Davis against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/01638/OUT, dated 7 August 2021, was refused by notice dated 5 November 2021.
 - The development proposed is the demolition of the current garages. These are then to be replaced with a 2 bedroom detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application form submitted seeks outline planning permission with all matters (access, appearance, landscaping, layout and scale) reserved for future consideration. As such I have treated the submitted appeal plans relating to any of the reserved matters as being for illustrative purposes only.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area,
 - whether there would be adequate living conditions for future occupiers of the development, having regard to outlook, privacy, daylight and sunlight levels, and
 - the effect of the proposed development on the living conditions of the occupiers of the neighbouring dwellings, with regard to outlook.

Reasons

Character and Appearance

4. The appeal site is located to the rear of a terrace comprising of residential and commercial properties facing onto London Road, with vehicle and pedestrian access from Cheltenham Drive. It is occupied by two adjoining single storey garage buildings with an area of unused land between the garages and the terrace. The character of the immediate area comprises of uniformly positioned buildings with a mix of uses.

5. Whilst all matters are reserved for future consideration, including appearance, layout and scale, an indicative site plan has been provided showing the footprint of the proposed dwelling as being similar to the existing garages on the site.
6. Nonetheless, the garages are ancillary buildings with a modest appearance that is typical of their use and location to the rear of a row of shops. A new dwelling in this location, is likely to appear less discrete. It is likely to be a more noticeable and dominant addition to the appeal site than the existing ancillary buildings. A residential building of any size in the location proposed would appear cramped, due to lack of space and proximity to other existing buildings.
7. Although there are residential properties adjoining the appeal site, the proposed dwelling would not follow the general uniform pattern and rhythm of residential development on either London Road or Cheltenham Drive. It would appear as an incongruous and isolated feature in a backland location. The overall effect would be visually harmful. Scope to restrict the height of the development by way of a planning condition or reliance on the agreement of reserved matters does not overcome my concerns.
8. The proposed development would harm the character and appearance of the surrounding area. It would conflict with: Policies KP2 and CP4 of the Southend on Sea Core Strategy (the CS) 2007; Policies DM1 and DM3 of the Southend on Sea Development Management Document (the DMD) 2015; as well as the Southend on Sea Design and Townscape Guide Supplementary Planning Document (SPD) 2009 which collectively seek to ensure that new development maintains and respects the character of the existing neighbourhood, local context and adds to the overall quality of the area. It would also conflict with the aims of the National Planning Policy Framework which promotes good design principles.

Living Conditions – Future Occupiers

9. Although the exact design and siting of the proposed dwelling would be matters reserved for future consideration, the proposed dwelling, wherever it was located on the appeal site, would be in close proximity to the rear of the two-storey row of terrace properties fronting London Road.
10. Due to the two-storey nature of the neighbouring terrace and its close proximity to the appeal site, the garden area of the proposed dwelling would be significantly overlooked from the first floor rear windows, particularly from No.1099 and No.1101 London Road, resulting in a loss of privacy for the future occupiers. Existing first floor neighbouring windows would also have views into any windows on the southern elevation of the proposed dwelling, should there be any, further compromising the privacy of its future occupiers.
11. Potential windows on the other elevations of the proposed dwelling would also be in close proximity to the boundaries of the appeal site, where the existing fences and walls surrounding the site would severely restrict the outlook from any proposed windows or the daylight and sunlight which they would receive. The appellant indicates that rooflights could be used. However, although that approach may allow daylight and sunlight to reach the proposed living spaces, it would still not provide a sufficient outlook for the occupiers of the proposed dwelling.

12. Consequently, I find that the proposed development would not be able to provide satisfactory living conditions for its future occupiers. It would conflict with Policies DM1 and DM3 of the DMD which seek to prevent a detrimental impact upon the living conditions and amenity of future residents.

Living Conditions – Neighbouring Occupiers

13. The proposed dwelling would be located in close proximity to the rear garden of 14 Cheltenham Drive. Although 'scale' is a reserved matter, I note that potential two storey development would be intrusive for the occupiers of this neighbouring property when using their rear garden which is in close proximity. However, a dwelling which is single storey in height is unlikely to result in a significantly worse outlook for the occupiers of No.14, taking into account the existing garages.
14. I accept that the proposed dwelling could potentially be designed to ensure that there is no harm to existing neighbouring living conditions in accordance with Policies DM1 and DM3 of the DMD.

Other Matters

15. The Council's reasons for refusal cite conflict with a planning permission¹ which has previously been granted on the neighbouring site fronting 1099 London Road.
16. It is understood that should planning permission be granted for the appeal proposal then the existing garage space could not be used for parking, refuse and cycle storage purposes associated with the approved development on the neighbouring site, contrary to the terms of the previous approval. However, there is little evidence available to make an informed judgement on that aspect and relevant parties could decide which of the permissions can or should be implemented. As well as the potential options available to amend the terms of an existing consent, where it is appropriate. Therefore, such matters are not determinative to this appeal scheme.
17. The appellant highlights that the proposal would supply a new dwelling close to nearby amenities which would boost the local commercial economy. However, those benefits would be modest and they would not outweigh the harms I have identified.
18. They also highlight a development for which planning permission was granted under the reference 20/00501/FUL, indicating that this is similar to the appeal site, on the other side of the road. But there is limited information available to attach any significant weight to any suggested precedent relative to the appeal site.
19. Additionally, the appeal site is identified as being located within the Zone of Influence for one or more European designated sites. The Conservation of Habitats and Species Regulations 2017 (as amended) requires a decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, as I am not minded to give consent for the proposal it is not necessary for me to address those issues in any further detail.

¹ 17/00841/FUL and 18/00094/AMDT (the previous approval)

Conclusion

20. Overall the development would harm the character and appearance of the surrounding area and would not provide satisfactory living conditions for the future occupiers of the proposed dwelling. 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. Accordingly, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR