



Appeal Decision

Site visit made on 9 August 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/M1595/W/22/3302331

41 Southend Road, Stanford Le Hope SS17 0PQ

- 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 Paul Moss against the decision of Thurrock Borough Council.
 - The application Ref 22/00016/FUL, dated 5 January 2022, was refused by notice dated 16 May 2022.
 - The development proposed is replacement dwelling house towards the rear of existing development site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In their submitted officer report, the Council have articulated three reasons for refusal. However, reason for refusal No 1 in the decision notice does not correspond with that contained in the officer report. Though it does refer to the same development plan policies, it appears to repeat concerns regarding living conditions of neighbours set out in reason for refusal No 2. This appears to be an error in the decision notice, though the Council has not responded to requests for clarification on this matter.
3. Nevertheless, based on the evidence before me, including the concerns raised in the officer report, I am satisfied that the effect of the proposal on the character and appearance of the area is a main issue in this case. I have therefore considered the appeal on this basis. Both parties have been given an opportunity to comment on this issue and so have not been prejudiced by this.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of 39 Southend Road, with particular regard to privacy; and
 - Whether the proposal would provide adequate arrangements for car parking.

Reasons

Character and appearance

5. The appeal site is located to the rear of a row of primarily semi-detached and terraced properties on the west side of Southend Road. The site can be

accessed via a gap in the row, in which there was previously a modest two-storey detached dwelling. At the time of my site visit, this building had been demolished. The immediate area is predominantly residential in nature, though there are some non-residential uses nearby, including a small shop, church and petrol station.

6. On the appeal site's side of the road, buildings are often traditional in design and of modest scale, though those immediately south of the appeal site are somewhat larger and more ornate. The building line in this part of the street is relatively consistent, with dwellings typically set back from the footpath behind modest front garden spaces. To the rear, long and narrow private garden spaces are common.
7. The limited spacing and adjoined nature of buildings creates a strong frontage along this part of the street, which the existing gap is at odds with. The proposed plans indicate this space would be retained to provide vehicular access and car parking. To the rear of the site, the proposed dwelling would be detached and set across two levels. It would be orientated perpendicular to the street and existing buildings and sited immediately adjacent to the oblique western site boundary.
8. Though partially screened by existing buildings along the street, the proposed dwelling would still be readily visible through the wide gap. The tall blank gable of the proposed dwelling would be facing towards the street and would be a noticeable addition from certain vantage points. The proposal would also be visible between other dwellings when viewed from Victoria Road to the rear.
9. I recognise there are other examples of development to the rear of buildings along Southend Road. However, due to its siting and orientation in relation to site boundaries and neighbouring buildings, and its visibility in the street scene and surrounding area, the appeal proposal would appear as an obtrusive and incongruous addition, out of keeping with the prevailing development pattern and the character and appearance of the surrounding area.
10. Furthermore, the proposed plans indicate that a considerable proportion of the site would be reserved for vehicle parking and manoeuvring areas. Though full details of hard and soft landscaping are not before me, this would limit opportunities for soft landscaping that otherwise may have assisted in softening the development.
11. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. It is contrary to Policies CSTP22, CSTP23 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) Adopted January 2015 (the CSPMD). These policies, among other provisions, seek to promote high quality design, protect, manage and enhance the character of Thurrock, and ensure development proposals respond to the sensitivity of the site and its surroundings, contribute positively to the character of the area and promote continuity of street frontages.
12. The proposal would also be contrary to Paragraph 130 of the National Planning Policy Framework (the Framework) in respect of its aim of ensuring that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and maintain a strong sense of place.

Living conditions

13. The neighbouring property at No 39 features a rear garden area that extends along the southern boundary of the appeal site. The proposed dwelling would be sited relatively close to this shared boundary, separated by a rear garden space that is appreciably shorter than most in the surrounding area. The rear elevation of the proposed dwelling would directly face the shared boundary.
14. This elevation would feature glazed doors and windows at ground floor serving an open plan kitchen/diner/snug. The existing timber fence along this boundary would provide a reasonable amount of privacy for the occupiers of No 39 from any overlooking that may occur from these openings.
15. However, at first floor level, the proposed dwelling would feature two bathroom windows and a bedroom window. These windows would look across the boundary at height, and result in considerable overlooking of the rear garden area of No 39, due to their proximity. This would erode the privacy of this neighbouring property and consequently would be harmful to the living conditions of occupiers.
16. I acknowledge that bathroom windows can typically be restricted to prevent undue overlooking from them, such as through obscure glazing, and that this could be secured through a planning condition. Such spaces are used less frequently than other rooms, and mutual privacy is typically required. This would therefore not be harmful to the living conditions of future occupiers.
17. However, such a condition would not be appropriate for a bedroom, which is typically occupied for longer periods. This would eliminate any outlook from this window, and effectively restrict any outlook from the dwelling at first floor to the front facing windows only. This would be detrimental to the living conditions of future occupiers and would not amount to good design. This would therefore fail to provide an acceptable solution to the above concerns.
18. I therefore conclude that the proposal would have a harmful effect on the living conditions of the occupiers of 39 Southend Road, with particular regard to privacy. It is contrary to Policy PMD1 of the CSPMD which, among other provisions, seeks to ensure development does not cause unacceptable effects on the amenity of others. The proposal would also conflict with Paragraph 130 of the Framework, in respect of its aim of ensuring developments create places with a high standard of amenity for existing and future users.

Car parking

19. The evidence indicates that the proposed dwelling would be built in an area previously proposed to serve as parking space for the accommodation within 41 and 41A Southend Road. The Council advise that four spaces would have served these properties.
20. The submitted plans appear to show five parking spaces that would be reserved for use by the occupants of the neighbouring properties at 41 and 41A Southend Road. These parking spaces would be situated on the site of the former dwelling, on land within the ownership of the appellant, albeit largely beyond the red line boundary of the appeal site.
21. The Council contend that three of these spaces would be inaccessible due to their proximity to the boundary fence opposite. Even if I were to accept that

these spaces in their current form are inaccessible, it is clear from the plans before me that there is sufficient space within land controlled by the appellant for three car parking spaces to be provided to serve Nos 41 and 41A, if not four, in addition to the necessary manoeuvring space.

22. Even if only three spaces could be provided, this would result in the displacement of only one additional vehicle parking off-site/on-street. There is no compelling evidence before me to indicate that such a modest increase in parking demand, if it were to arise, would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
23. In this circumstance, I am satisfied that final details of the car parking layout could be secured by planning condition, and the proposal would provide adequate arrangements for car parking. I therefore do not find any conflict with Policies PMD2, PMD8 or PMD9 of the CSPMD in respect of this main issue. These policies, among other provisions, seek to ensure that developments allow easy and safe access and comply with car parking standards.

Other Matters

24. I recognise that the proposal would result in the provision of a dwelling that would contribute towards the local housing supply. However, the proposal is described in the appellant's application form as a replacement dwelling, indicating there would ultimately be no net increase in dwellings.
25. Nevertheless, footnote 8 of the Framework indicates that, in applications involving the provision of housing, Paragraph 11(d) of the Framework will apply where the Council cannot demonstrate a five-year housing land supply (5YHLS). The appellant contends that the Council cannot demonstrate a 5YHLS, and this has not been disputed by the Council. Notwithstanding this, up to date 5YHLS and housing delivery test (HDT) figures are not before me.
26. The Framework seeks to significantly boost housing supply, and it encourages recycling of derelict and other urban land through its Green Belt policies, which are applicable in Thurrock. It highlights that small sites can make important contributions to housing requirements and encourages the optimal use of underutilised land.
27. The proposal would reuse previously developed land in an existing urban area, with access to public transport and other amenities. It would contribute to housing delivery and provide a temporary boost in employment during construction. Future residents may also contribute to the local economy and vitality of the community. These benefits would be very modest however given the small scale and context of the development, particularly given it replaces a dwelling that was previously in this location.
28. On the other hand, the Framework also highlights that good design is a key aspect of sustainable development and seeks to ensure development is sympathetic to local character and the surrounding built environment. It also seeks to ensure developments create places with a high standard of amenity for existing and future users. Policies CSTP22, CSTP23, PMD1 and PMD2 of the CSPMD are consistent with the Framework in this respect. The harm that would be caused to the character and appearance of the surrounding area and the

living conditions of the occupiers of neighbouring properties thus attracts significant weight.

29. Paragraph 124 of the Framework indicates that decisions should support development that makes efficient use of land. However, the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, attractive and healthy places must be taken into account. Given the identified harm in this instance, it has not been demonstrated that the proposal would constitute an efficient use of land.
30. Therefore, even if Paragraph 11(d) were applicable, the adverse impacts identified above would significantly and demonstrably outweigh the modest benefits when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would not benefit from the presumption in favour of sustainable development.
31. Other than where set out above, I have not identified conflict with any other relevant parts of the development plan or national policy and guidance. However, the absence of harm or development plan conflict with respect to other relevant matters weighs neither for nor against the proposal.
32. The evidence indicates that the appeal site is within the Zone of Influence for a European designated site in which proposals for new residential development have the potential to give rise to significant effects (either alone, or in combination with other proposals) through recreational disturbance. However, as the appeal is to be dismissed for other reasons, it is not necessary for me to undertake an appropriate assessment to consider the effect on the designated site.

Conclusion

33. The proposal would result in significant harm and development plan conflict with respect to its effect on the character and appearance of the area and the living conditions of the occupiers of neighbouring properties. While I have found the proposal to be acceptable with respect to car parking arrangements, this does not outweigh the identified harm and development plan conflict. I therefore find that the proposal would be contrary to the development plan, taken as a whole.
34. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR