



Appeal Decision

Site visit made on 30 October 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/D1590/W/22/3309148

28 Belfairs Drive, Leigh-on-Sea SS9 3AA

- 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 Bedrock Developments Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 22/01194/FUL, dated 18 July 2022, was refused by notice dated 1 September 2022.
 - The development proposed is demolish existing bungalow and construct 1no pair of 4 bed semi-detached houses with car parking to the front and private amenity space to the rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At my request, the Council provided an explanation of what it considers to be its current 5-year housing land supply position. I have also taken account of the appellant's comments in response in determining the appeal.
3. Whereas the appellant has referred to the site as in a Conservation Area, the Council states it is not. There is no objective evidence before me to suggest the Council is wrong so I have determined the appeal on this basis.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the area; and
 - the Council's housing land supply and delivery position.

Reasons

Character and appearance

5. The appeal site is No.28 Belfairs Drive and its plot. This large, detached bungalow in a wide plot sits towards the higher, southern end of a row of dwellings along one side of this small sloping road facing a shorter row of dwellings opposite. This mix of detached and semi-detached two-storey houses, single-storey bungalows and chalet bungalows are varied in age and design. As such no one form dominates the streetscene which also has an appreciable sense of spaciousness and pleasant pollarded pavement trees. There is similar residential development in nearby roads in this built-up area of Leigh-on-Sea. Even if No.28 is of 'no architectural merit', as the appellant

suggests, it nonetheless therefore makes a positive contribution to the character and appearance of the area and as such does have intrinsic 'merit for town planning purposes'.

6. This road is not, though, in stasis. Some original dwellings have been extended, altered and adapted to meet living needs and evidently some, or some plots, redeveloped with newer dwellings, including of contemporary design. This includes No.32¹ which is a large, detached house on one side of No.28 and though there are several bungalows and chalet bungalows in this road, houses prevail by 2:1. While the proposal would diminish the number of bungalows, including the row of three formed by No.28 with Nos.22 and 24, a pair of semi-detached dwellings would not be incompatible per se in this local context. The proposed plot sizes would broadly be in-keeping with others in the road as would be the means of front garden parking.
7. Due to the slope, No.32 is the same or only slightly taller than the eave and ridge heights of the closest semi-detached houses north of it and the wide projecting front gable is simple in design with a similar pitch to equivalent gables in some of those houses. The main hipped roof and inset, subservient low pitched side hipped roof form significantly mitigates visual presence of this house in the streetscene and gives a sympathetic step-down in scale and massing of built form to No.28. It also maintains spaciousness on both sides of it, like other gaps at an upper level between the main hipped roofs at most houses in the road, including above or next to extensions over garages.
8. However, while the gabled main roof form of the proposed semi-detached houses would reflect some houses further south or north of the site, they are not close enough to set an appropriate template for the site where hipped roofs are evident either side and opposite. Though the main roof ridge would follow the fall in the slope, the gabled form would significantly erode the gap and spaciousness at roof level both sides with No.32 and, especially, the bungalow at No.24 and the individual and combined ridge lines would be quite long. There would be a substantial disparity in bulk of built form in relation to No.24, with an unduly abrupt overbearing transition and step-down in height, accentuated by the upper part and depth of the rear projecting gable in the facing side elevation of the southern house.
9. The projecting front gables would be narrower than in No.32 but significantly wider than in most pairs of semi-detached houses in the road and placed at the outer edge of each front elevation, not towards the centre. The two-storey square front bays would be inconsistent with the mostly curved or angled bays at these other houses and significantly more pronounced even than the square bays in the pair of semi-detached houses opposite the site. The gabled roofs over would be appreciably more steeply pitched, rise noticeably higher to main ridge level and include fenestration in placement and shape for which there is no evidence is reflected at other houses in the road.
10. Together with the number, alignment and placement of rooflights close to eaves level and windows below, these aspects of the design unduly exacerbate and overly emphasise the width and height of built form close to the site side boundaries. Even though the Council's 1m separation guideline has been followed, this is a minimum to be taken in the round, not a target to be achieved regardless. The significant increase in built form in this case,

¹ Referred to by the appellant as No.30

particularly at first floor and roof levels would stretch across nearly the entire site width and vertically to roof ridge level close to the boundary on either side. As a result, overly close to No.32 (despite that this house is close to the common boundary, it already exists so must be respected, not necessarily repeated) and notably closer than the most significant gaps between the semi-detached pairs of houses to the north.

11. The proposal therefore fails to sufficiently reflect important aspects of the relationship of No.28 and its plot to its surroundings and important features of No.32 and the other most relevant houses in the road. Infilling the site with this cramped bulk and layout of built form would be at odds with the prevailing arrangement of these houses, significantly erode spaciousness and its overly dominant visual presence would jar in public views. These individual and cumulative adverse impacts would not be alleviated by detailed design articulation and this unacceptable form of development would not be 'fully integrated' into the streetscene without unacceptable detrimental harm.
12. Suitable external materials to complement the dwellings in Belfairs Drive could be secured by a planning condition and there is no apparent reason why the development with a contemporary slant would not be high quality in these respects. However, this would not overcome the matters set out above. There is no evidence that redeveloping the site as proposed is the only way to achieve more efficient use of it for housing or to remedy the appellant's perception of this 'aged poorly extended bungalow'. Nor that it is the only way to 'commence the renewal and regeneration' of 'rather tired and dated building stock' in this road. The proposal would not in any event set an entirely suitable or appropriate vision for this and there is no evidence of any specific Council initiative in this regard. Contemporary housing redevelopment has anyway already started in this road.
13. Taking all the above into account, I find that the proposal would adversely affect the character and appearance of the area. Consequently, it does not comply with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy December 2007 (CS) or with Policies DM1 and DM3 of the Southend-on-Sea Development Management Document July 2015 (DMD). These policies include that development should be well designed to respect the character of the site, its local context and surroundings in terms of architectural approach and details of height, scale, form, massing, layout, grain, proportions and townscape. It should secure a good relationship to existing development, add to the overall quality of an area, create successful places and reinforce local distinctiveness.

Housing land supply and delivery

14. In July 2023 the Council considered it could demonstrate a 5-year supply of deliverable housing sites (5YHLS) using the Government's standard methodology, provided a 20% buffer is not applied. This is on the basis that the 2021 Housing Delivery Test (HDT) hasn't been updated since and in that case it says it has a 5.02-year supply. Even if so, at 31% of housing delivery it failed this HDT by a significant margin.
15. The Council suggests that housing delivery in Southend-on-Sea has 'performed well' against its CS local housing requirement of 325 dwellings per annum (dpa). It has also since adopted development plan documents (DPDs) seeking to deliver more homes. Because of the HDT position it applies the presumption in favour of sustainable development to decisions it makes. I also appreciate

that the Council must reconcile housing need and delivery against constraints, such as limited suitable land availability.

16. However, the CS was adopted more than 15 years ago and even the DPDs are approximately five years old or more. The CS housing requirement is therefore not up-to-date and substantially lower than housing need using the standard methodology (1,411 dpa) and even without a 20% buffer (1,176 dpa). A new local plan will consider the standard methodology for determining housing need but it is at public consultation stage. I have not been informed about a draft housing requirement. Nor is there evidence that any other review of the CS policies which set out the current housing requirement found they do not need updating.
17. The current National Planning Policy Framework (Framework) was recently published in September 2023. There is no change to paragraphs 74 and 75 or to paragraph 223². Nor to relevant Planning Practice Guidance. Consequently, there is no apparent reason why the most recent HDT should be ignored and the 20% buffer not applied in this appeal. On this basis, and as the Council otherwise accepts, at 4.18-years it cannot currently demonstrate a 5-year supply of deliverable housing sites, with a shortfall of 1,151 dwellings.
18. Both main parties have referred to a previous appeal decision from 2021 but no details have been provided. It does not, anyway, reflect the current 5YHLS or HDT position and the appellant has not disputed these later figures.
19. I find that the council cannot currently demonstrate a 5-year supply of deliverable housing sites and that the most recent Housing Delivery Test has not been met.

Other Matters

European sites

20. The appeal site is within a zone of influence of Essex coastline designated as European sites to protect habitat for important bird species³. Alone or in-combination with other development the net dwelling gain in this case would have a likely significant effect on the integrity of habitat and species in the European sites due to recreational disturbance by the additional residents visiting them.
21. With advice from Natural England and endorsed by it, the Council adopted a Recreational disturbance Avoidance and Mitigation Strategy (RAMS)⁴. It provides for a tariff based per dwelling financial contribution towards implementing strategic mitigation measures set out in the RAMS. Payment of the financial contribution must be secured by a suitable planning obligation. Prior to its decision, the Council received the requisite payment. By this means the Council considers that the proposal would have no adverse effect on the integrity of the European sites.

² Starting on page 63 (as was paragraph 222)

³ One or more Special Protection Area, Special Area of Conservation or Ramsar site

⁴ Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document, May 2020

Other interested party comments

22. Several residents and Leigh Town Council also objected to the proposal for other reasons, including effect on the living conditions of neighbouring residents, on and off-site parking and loss of a bungalow. I have had due regard to all these matters, but there is no compelling objective evidence to support what are therefore largely anecdotal or speculative matters. In particular, a snapshot of properties for sale may be indicative of churn or instant demand in the housing market, but it is not the same as sustained need over the duration of a plan period. While in this case that includes bungalows for elderly people it is not the only housing need that the Council seeks to meet. The Council did not object to the proposal for any of these reasons.

Council's decision

23. Albeit by a narrow margin, Council members resolved to reject the officer recommendation to grant planning permission subject to conditions, as they can. It is therefore unsurprising, and of no material consequence, that some aspects of the Council's appeal statement provide a different explanation of certain matters than the officer report. Having made the decision that it did, I have determined this appeal on its individual planning merits.

Planning Balance

24. In light of my finding on housing land supply and delivery, and either way (5YHLS or HDT), by virtue of footnote 8 Framework paragraph 11(d) is therefore engaged. The starting point is that planning permission should be granted.
25. The site is in a built-up area and the part excluding the garden is previously-developed land⁵. The family sized houses would be on a small windfall site in an accessible urban area near facilities and services and could be built relatively quickly. In a limited commensurate way a net gain of one house would contribute to meeting the Council's housing requirement and both houses would sustain employment during construction. These outcomes would align with objectives of the Framework to significantly boost the supply of homes, meet people's living needs and support the economy. These would be modest social and economic benefits from two dwellings (1 net gain) so, in my view, they each have moderate weight in support of the proposal.
26. However, the proposal would cause significant harm to the character and appearance of the area. This would undermine the Council's development plan objectives in this respect. These are broadly consistent with aims of the Framework to achieve well-designed places; including that development should add to the overall quality of the area, be visually attractive, sympathetic to prevailing local character and built environment, maintain a strong sense of place with respect to building types to create distinctive places to live.
27. In light of the 5YHLS and HDT position, reduced weight applies to these policies most important for determining the appeal. But while the CS was prepared and adopted against a different national planning policy context, the Framework is not materially changed in these regards. The DMD was adopted against a previous version of the Framework and it remains broadly consistent with the (current) Framework in these regards.

⁵ Framework Annex 2: Glossary

28. Consequently, notwithstanding the 5YHLS and HDT position and the not insignificant scale of housing shortfall, I consider that the support given in the Framework to delivering housing is not at the expense of ensuring that residential development is appropriate in relation to its surroundings. In my view, these important compelling adverse social and environmental impacts have substantial weight against the proposal.
29. In this appeal, policies in the Framework protect an area or asset of particular importance (the European sites). As the competent authority it would ordinarily be necessary for me to undertake Appropriate Assessment⁶. However, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.
30. Since I intend to dismiss the appeal, even if the proposal did not adversely affect the integrity of the European sites, so not provide a clear reason for refusing the development, there is no need for me to consider the European sites any further. This is because it would not affect my decision or alter the outcome of the appeal.

Conclusion

31. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan⁷. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁶ Conservation of Habitats and Species Regulations 2017 (as amended)

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12