



Appeal Decision

Site visit made on 4 March 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/D1590/W/23/3327261

135 Marine Parade, Leigh-on-Sea, Southend-on-Sea SS9 2RF

- 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 P Miller and Mr P Hills of P + PR Property Developments Ltd against the decision of Southend-on-Sea City Council.
 - The application Ref 23/00006/FUL, dated 5 January 2023, was refused by notice dated 2 March 2023.
 - The development proposed is described as “demolish the existing extremely dilapidated large detached dwelling and construct development of 7 contemporary apartments”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The second reason for refusal relates to the development offering no reasonable mitigation of the in-combination effect of the net increase of six dwellings on habitats and species. This is required by the Habitats Regulations as identified in the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020 (RAMS). The appellant previously made a payment towards the RAMS as part of an earlier scheme for the site, and I return to this issue later.
3. The appellant submitted an amended plan (drawing number 22.182/03 Rev A) with the appeal documentation. The amended plan shows changes to the soldier course brick detail, cladding and clear instead of tinted glazing. The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people’s views were sought. Nonetheless, as the amended plan does not materially change the proposal, I have had regard to them in my determination of the appeal as I am satisfied that the interests of the parties would not be prejudiced.
4. There were previous applications for development on this site, including ones from 2019¹ and 2021² for which appeal decisions were issued. The 2019 scheme for the remodelling and extension of the existing building to create six apartments was allowed. The 2021 proposal, involving the demolition of the dwelling and construction of 7 apartments, was dismissed. Although I consider

¹ Application Ref 19/01417/FUL, Appeal Ref APP/D1590/W/19/3243705 “the 2019 scheme/proposal”

² Application Ref 21/01685/FUL, Appeal Ref APP/D1590/W/21/3287594 “the 2021 scheme/proposal”

the relevance of the previous schemes as part of my overall decision, my consideration of the merits of the proposal is based on the plans before me.

5. The National Planning Policy Framework (the Framework) was revised and the 2022 Housing Delivery Test (HDT) results were published in December 2023, and the Council and the appellant were invited to make further comments. My decision reflects the revised Framework and HDT results.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

7. The site comprises a large, two-storey detached house with roofspace accommodation in a large double corner plot. It lies in a prominent position fronting both Marine Parade and Thames Drive, sited roughly in line with, although slightly forward of, the other buildings in those streets. The surrounding area is characterised by attractive detached and semi-detached structures, some of which have been converted to flats. There is a mix of designs, but the predominantly two storey heights and similar set back from the road provide a consistency to the pattern and appearance of development. There are no designated heritage assets nearby.
8. The Council's Design and Townscape Guide 2009 (Townscape Guide) recognises that the area has more imposing buildings and grander streets than other parts of the Borough, and that individual designs may vary but their scale and grain are unifying characteristics.
9. The existing house would be replaced with a large two and three storey block of flats, facing Marine Parade. The development would not exceed the height of the existing dwelling and parts of the roof would be lower than the 2021 scheme. However, whilst the gables would provide visual breaks in the roof, similar to the 2021 proposal the roof profile would be significantly greater than the existing one. Further, the eaves on most of the building would be much higher than those on nearby dwellings. As such, the size and extent of the proposed roof would be excessive.
10. The existing house has a steep, hipped roof which slopes down towards a two-storey projecting gable on the corner of Thames Drive and Marine Parade. In contrast, similar to the 2021 scheme, the three-storey element of the proposed development would extend towards Thames Drive. I note that the contemporary design seeks to break up the width of the elevation and provide depth to the design, but the overall scale and form of the building would appear overly large, dominating this highly prominent corner plot.
11. The proposed building would be significantly closer to Thames Drive than the existing structure and other dwellings on this side of the street. Although it would be slightly further from this street than the 2021 scheme, it would fail to reflect the relatively consistent building line on the east side of Thames Drive. Further, its siting close to Thames Drive would emphasise the harmful scale and form of the proposed building.
12. The top section of the proposed front gables would provide sun canopies, with the main building set back from it by around 2.5m. Although clear glazing

- would be used, due to the canopy depths, the extent of the windows behind only parts of them and the use of cladding, the canopies would create dark voids on this frontage. This would harmfully contrast with the largely open, uncovered balconies nearby, appearing as an alien feature in the streetscene.
13. The existing house on this corner site has a gable, windows and architectural detailing which respects both road frontages. The proposed development would include more windows facing Thames Drive than the 2021 scheme, as well as soldier brick courses and false window features, and a curved corner wall would soften the transition from front to side. However, the design approach prioritises the primary elevation on Marine Parade and from Thames Drive it would appear as the side of a large building facing Marine Parade. Thus, the scheme would fail to provide suitable articulation along the busy and prominent Thames Drive frontage.
 14. The development would include three gables and different types of windows to the rear. I acknowledge that local façades are not uniform, but due to the varied height, widths and projections of the proposed gables and multiple styles and sizes of the windows, the rear elevation would lack cohesion. As such, it would be discordant in the streetscene, particularly in views travelling southbound along Thames Drive.
 15. Therefore, I conclude that the proposed development would harm the character and appearance of the area. It would conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 (CS) and Policies DM1, DM3 and DM6 of the Council's Development Management Document 2015 (DMD). Together, these require development to respect the character, context and appearance of the site, Seafront and the wider area, including in relation to its architectural approach, scale, form, massing and townscape setting, amongst other things.
 16. The proposal would also be contrary to the Framework which sets out that development should be sympathetic to local character and development that is not well designed should be refused. It would fail to respond positively to the site features and surrounding context as set out in the National Design Guide.
 17. Further, the scheme would conflict with the Townscape Guide where it states that development of a larger, different or unbalancing scale in areas of large detached and semi-detached housing would be detrimental to local character.

Other Matters

18. The Council does not find harm or find development plan conflict in relation to several other matters, including the principle of residential development, living conditions, parking, highways, accessibility and refuse storage. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. However, the absence of harm does not carry weight in favour of the proposal.
19. The appellant has expressed general dissatisfaction with the Council's handling of the application. However, this is a matter between those parties, and it cannot have any bearing on my determination of this appeal.
20. I have been provided with a copy of the previously approved elevations for the 2019 proposal. Having regard to the relevant case law³, it seems that there is a

³ Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314

real prospect that this would be implemented in the event of this appeal failing and this represents a fallback position. The 2019 scheme would significantly alter the appearance of the appeal property, but it would have a much smaller scale and form than the current proposal, with a design which is appropriate to its corner location and dual frontage. Therefore, the two schemes are not comparable. The appellant states that the current proposal would provide larger units with better access to private outdoor space than the earlier scheme. However, the proposed scheme would harm the character and appearance of the area. Therefore, I give the fallback position limited weight.

Planning Balance and Conclusion

21. The Council accepts that it has an under-supply of housing against the required five years. Its current published position, agreed in July 2023, is a 4.18 year housing land supply, equating to 5,904 dwellings when measured against the Government's standard methodology with a 20% buffer. This is an improvement compared to 2021 when appeals for another site in the Council's area were determined⁴. Nevertheless, the HDT 2022 confirms delivery at 31% over the past three years, equating to a shortfall of 2,100 dwellings. This is one of the lowest delivery rates in the country and significantly below the 75% referred to in the Framework. Therefore, there remains a significant shortfall and paragraph 11(d) of the Framework is engaged.
22. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of six additional dwellings to the supply of housing, making better use of previously developed land in an urban area. It would contribute towards Southend-on-Sea's housing supply, making some difference to addressing the shortfall, and therefore I attribute modest weight to this benefit.
24. In contrast, the proposal would harm the character and appearance of the area. The Framework requires development to be sympathetic to local character and development that is not well designed to be refused. I have concluded that the proposal would conflict with Policies KP2 and CP4 of the CS and Policies DM1, DM3 and DM6 of the DMD, and the Townscape Guide. These matters combined carry significant weight against the scheme.
25. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposed development does not benefit from the presumption in favour of sustainable development.
26. The proposal would be likely to have a significant effect, either alone or in combination, on one or more European habitats sites due to its location within the Zone of Influence set out in the RAMS. However, notwithstanding that the appellant previously made a payment towards the RAMS as part of an earlier scheme for the site, there is no need to consider the implications of the

⁴ Appeal refs: APP/D1590/C/18/3218906, APP/D1590/C/18/3218913, APP/D1590/W/19/3242322 and APP/D1590/W/19/3242326

proposed development on the protected sites because the scheme is unacceptable for other reasons.

27. For the reasons given above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Wright

INSPECTOR