



Appeal Decision

Site visit made on 8 May 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Appeal Ref: APP/D1590/W/23/3335097

807 London Road, Westcliff-on-Sea, Southend-on-Sea SS0 9SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Gavin Eade of Just 83 Ltd against the decision of Southend-on-Sea City Council.
 - The application Ref is 23/01430/FUL.
 - The development proposed is to erect a first floor side extension and convert an existing building into two dwellinghouses with associated parking and amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the proposed development on:
 - the employment use of the site;
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 1 and 3 Wellington Avenue, with particular regard to outlook.

Reasons

Employment use

3. The appeal site comprises a disused part single, part two-storey building, with an overgrown area in front. It lies behind ground floor commercial premises fronting London Road and Southbourne Grove, many with flats above, with the area to the north having a more residential character. The proposal is to convert and extend the building to provide two dwellings.
4. The site is not within an employment area and Policy DM11 of the Council's Development Management Document 2015 (DMD) sets out the approach for sites last used for employment purposes outside employment areas. This indicates that alternative uses will only be permitted where it is demonstrated that it will no longer be effective or viable to accommodate the continued use of the site for employment purposes or that use of the site for B2 or B8 purposes gives rise to unacceptable environmental problems. It also outlines that such proposals will need to give greater potential benefits to the community and environment than continued employment use.

5. Appendix 4 of the DMD sets out the qualitative appraisal required to justify the loss of employment use outside employment areas. This requires an analysis identifying the advantages and limitations of the site to accommodate employment uses, including a justification as to why these could not be overcome. The appraisal should also analyse the policy context, the quality of the buildings/site, accessibility and any constraints that will limit the future use of the site for employment.
6. The appeal property was most recently used for storage and there is no evidence that this use gave rise to unacceptable environmental problems. The building appears to have been vacant for a significant length of time and is in a poor state of repair, appearing to have significant structural damage. Whilst this makes it unsuitable for immediate occupancy and substantial renovations for commercial use may be required, there is little information on why this limitation could not be overcome through general investment or improvements as specified in Appendix 4 of the DMD.
7. I acknowledge that the size of the site and its proximity to dwellings would limit the types of employment uses which could be located there, and that the proposal would improve the local environment. However, there has been a failure to show that the site could be retained for employment use as required by DMD Policy DM11.
8. Consequently, I conclude that it has not been demonstrated that the site could no longer accommodate employment use. Therefore, the proposal would conflict with Policies KP1, KP2 and CP1 of the Southend-on-Sea Core Strategy 2007 (CS) and Policies DM3 and DM11 of the DMD. Together, these seek to achieve economic regeneration, including by retaining existing employment uses outside employment areas.

Character and appearance

9. The site contains a two-storey building with brick walls and a pitched tiled roof, with a concrete side extension. Its curtilage is largely overgrown but includes some mature trees. The wider area is characterised by two storey buildings largely with rendered and brick walls, and red and brown tiled pitched roofs.
10. The proposed development would include the replacement of the existing side extension with a large single and two storey addition as well as a smaller addition providing access to the proposed flats. I note that the scheme is intended to be an innovative design and would bring a vacant site back into use. However, its large expanses of zinc aluminium clad walls, flat green roofs and boxy design would be starkly at odds with the traditional walls and pitched roofs on the host building and other properties in the vicinity.
11. In addition, the two-storey extension would be higher than the eaves on the retained structure, creating an ungainly, disjointed addition which would not be subservient to the existing building. Further, due to the frontage of the proposed side extension exceeding that of the original building and its part two storey height, the scheme would result in a bulky addition to the appeal property.
12. I acknowledge that the glazed panel would distinguish between the existing building and the proposed extension. However, the vertical appearance of the

proposed front windows would fail to reflect the square multi paned fenestration in the retained structure.

13. The appellant refers to other extensions allowed in the Council's area, but as limited information has been provided, I am not able to compare them to the appeal proposal.
14. The Council's Design and Townscape Guide 2009 (Townscape Guide) requires proposals in areas of uniform scale to preserve local character. For the reasons set out, the proposed scheme would not meet the guidance set out in the Townscape Guide.
15. Therefore, I conclude that the proposal would harm the character and appearance of the area. In this regard, it would conflict with Policies KP2 and CP4 of the CS and Policies DM1 and DM3 of the DMD. Together, these require developments to achieve high quality design which respects the character of the site and surroundings, including in relation to its architectural approach, height, scale, form and materials, amongst other things.

Living conditions

16. The appeal site is separated by around 1m from the rear gardens of dwellings at 1 and 3 Wellington Avenue (Nos 1 and 3). The existing two storey building on the appeal site lies at the end of the garden at No 3 and its single storey extension is largely screened in views from the neighbouring gardens by fencing and vegetation.
17. The proposed development would replace the existing side extension with a part one storey and part two storey addition. The single storey part would be marginally higher than the extension it replaces, and the two-storey part would be around 5.9m high.
18. I acknowledge that the scheme would be visible from the gardens and houses at Nos 1 and 3. However, the neighbouring gardens are good-sized and there would be a small separation between their boundaries and the proposed extension. Further, only part of the proposed development would be two storeys high, slightly higher than the eaves of the existing building but with a lower overall height. Therefore, given the neighbouring garden sizes and the scale and location of the proposed two-storey extension relative to these gardens, the proposal would not overly dominate the outlook or result in an unacceptable sense of enclosure to the residents at Nos 1 and 3.
19. Consequently, I conclude that the proposal would not harm the living conditions of the occupiers of 1 and 3 Wellington Avenue, with particular regard to outlook. In this respect, it would comply with Policies KP2 and CP4 of the CS and Policies DM1 and DM3 of the DMD where they require development to avoid detrimental impacts on the living conditions of neighbouring residents, having regard to outlook.

Other Matters

20. The Council did not find harm or development plan conflict in relation to several other matters, including heritage assets, internal space standards, the living conditions of the occupiers of 10 Southbourne Grove and vehicle manoeuvring space. It further found that the impact of the development on trees and biodiversity could be reserved for assessment through a suitably worded

condition were the proposal otherwise acceptable, However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

Planning Balance and Conclusion

21. The Council accepts that it cannot currently demonstrate a five year housing land supply as required by the National Planning Policy Framework (the Framework). It also accepts that there has been an underperformance in housing delivery measured against the Housing Delivery Test. As there is a shortfall in housing provision, 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 two additional dwellings to the supply of housing, making better use of the land. It would contribute towards Southend-on-Sea's housing supply, making a modest 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 and it has not been demonstrated that the site is no longer effective or viable to accommodate employment uses. The Framework places significant weight on the need to support economic growth and productivity, as well as requiring good design and development sympathetic to local character. I have concluded that the proposal would conflict with Policies KP1, KP2, CP1 and CP4 of the CS and Policies DM1, DM3 and DM11 of the DMD. 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 proposal 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 adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020. However, there is no need to consider the implications of the proposal 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