



Appeal Decision

Site visit made on 17 June 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/D1590/W/23/3332533

27 Redstock Road, Southend-on-Sea SS2 5DJ

- 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 and Mrs C Morris against the decision of Southend-on-Sea City Council.
 - The application Ref is 22/00664/FULM.
 - The development proposed was originally described as "demolition of existing buildings and erection of a 19 x 4 storey apartment block with associated parking and amenity space and form vehicular access onto Redstock Road".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development set out in the banner heading above is taken from the application form. However, the scheme was amended during the application, and it is clear from the plans and accompanying details, including the appeal form, that the development proposed would comprise a part three/part five storey block of 18no. apartments. I have determined the appeal on this basis.
3. The appellants submitted amended proposed site and floor layout plans (drawing numbers 20 047 1002 Rev F, 20 047 100 Rev J, 20 047 101 Rev K, 20 047 102 Rev I, 20 047 103 Rev H, 20 047 104 Rev I) and a proposed daylight section (drawing number 20 047 109) with the appeal documents. These show changes to proposed bedroom layouts and storage and additional information on daylighting for some apartments. As these only show amendments which are minor and internal to the scheme, 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.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area;
 - whether acceptable living conditions would be provided for future occupiers, with particular regard to accessibility, outlook, light and internal space; and
 - whether the proposal would make adequate provision for affordable housing and any need for education infrastructure arising from the development, taking into account the financial viability of the scheme.

Reasons

Character and appearance

5. The appeal site comprises a two storey disused commercial premises in a residential street, with a retail park to the rear. Redstock Road largely consists of two storey hipped roof dwellings with projecting front gables. To the east lies a modern three and four storey flat roofed apartment block with various front recesses and projections and mixed wall materials. As such, there is some variation in building sizes and designs in this predominantly residential area.
6. The existing damaged commercial building would be replaced with a large three to five storey block of apartments, facing Redstock Road. The neighbouring apartment block is three storeys where it abuts the appeal site, and the higher part of the proposed building would significantly exceed the height of this. The three storey element would also be higher than the adjacent two storey houses, with the roof eaves being substantially higher than those on the adjacent property. As such, the scheme would be excessively high and dominate views from Redstock Road.
7. The glazed column above the proposed entrance would provide visual relief to the front of the four/five storey building. The render finish would be similar to other local buildings and the gables would give variety to the roof mass and form. However, the large expanses of gable walls in the same material and on the same plane together with its height and large crown roof would create a structure with significant bulk. Although the glazed, recessed balconies are intended to provide visual interest, due to their location on one side of each gable and the multiple styles and sizes of windows and patio doors, the building would have an unbalanced appearance.
8. The proposed west wing would appear bolted on to the higher part of the scheme. Due to its much lower height, large projecting balconies, half-hipped roof and ground level void with supporting columns, it would appear incongruous in relation to the rest of the proposed frontage. The crown roof, large void and extent of the front walls with little visual relief would give the lower element of the proposed scheme a functional appearance. Further, its height and roof form would result in a poor transition between the existing lower hipped roof houses adjacent and the proposed higher development.
9. The sides of the proposed building would comprise significant amounts of solid walls with minimal openings. The lack of articulation to the west elevation and high proportion of rendered walls to windows would appear bland in views when travelling eastbound on Redstock Road and from nearby Stadium Road.
10. The upper floors would overhang the ground floor by over 6m to the rear. The depth of the overhang and its extent across the entire rear of the proposed apartment block would create a large, dark void at ground level which would not provide an attractive entrance from the car park. Further, due to the size of the overhang and the narrowness and small number of supporting columns, the upper floors would appear unsupported.
11. The Council's Design and Townscape Guide 2009 (Townscape Guide) states that the successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. As

the proposed development would appear dominant in the streetscene, it would fail to meet the requirements contained in the Townscape Guide.

12. Consequently, I conclude that the proposal would harm the character and appearance of the area. Accordingly, it would conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 (CS) and Policies DM1 and DM3 of the Council's Development Management Document 2015 (DMD). Together, these require development to respect the character of the site and the wider area, including in relation to its architectural approach, scale and form, amongst other things.

Living conditions – future occupants

13. DMD Policy DM8 requires at least 10% of new dwellings on developments providing 10 or more units to be wheelchair accessible, or easily adaptable for residents who are wheelchair users, amongst other things. It also includes a requirement for new dwellings to meet the Lifetime Homes Standard, unless it can be clearly demonstrated that it is not viable and feasible to do so. The Lifetime Homes Standard is now superseded by Building Regulation M4(2) 'accessible and adaptable dwellings' as set out in the Council's Technical Housing Standards Policy Transition Statement 2015 (the housing standards statement), which includes a requirement for step-free access.
14. The proposal would include a lift, but it has not been demonstrated that access to the apartments would be step-free nor that wheelchair accessible dwellings would be provided, as required by Policy DM8 and the housing standards statement. The appellants state that the development could provide for wheelchair accessibility, but it would not be reasonable to impose a condition requiring this as ensuring compliance with accessibility standards could involve significant redesign of the proposal.
15. The site backs onto the servicing yard and car park for an adjacent retail unit. To the rear, the proposed development would be dominated by car parking to serve the flats, with only very small areas available for soft landscaping. The extent of hard surfacing with limited vegetation would create a poor outlook for the occupiers of the rear facing apartments when using their balconies.
16. The north facing bedroom windows for ground floor flats 1 and 2 would be set back from the projecting parts of the proposed building and below upper floor balconies. Further, the deep kitchen/living rooms of flats 4 and 9 would each only be served by a single large north facing window. The daylight section includes some information of angles to these windows and the appellants state that the vertical sky component would not be obstructed. I acknowledge that the BRE's daylight and sunlight guidance is advisory and that flats 1 and 2 would face the front landscaped area. However, given the proposed orientation and position of the windows and the room depths, in the absence of a daylight and sunlight assessment, I cannot be certain that adequate light would be achieved to habitable rooms in flats 1, 2, 4 and 9.
17. The appellants refer to the ground floor layout and window positions in the adjacent flatted development granted planning permission in 2011 (ref 11/0087/FULM). Nevertheless, I am not aware of the policy context in which that development was approved or whether a sunlight and daylight assessment was carried out for that scheme, and this limits the weight that I can give to it.

As such, the layout and window positions in the adjoining flats do not negate the need to provide adequate light to the proposed apartments.

18. Policy DM8 and tables 4 and 5 of the DMD indicate minimum gross internal floor area and internal storage area requirements for different dwelling sizes. The supporting text states that the policy should be interpreted by reference to the nearest equivalent nationally described space standard (NDSS) once this comes into force, and the subsequent housing standards statement confirms this. The NDSS includes minimum bedroom widths and built-in storage for different types of bedroom and dwelling sizes.
19. The proposed apartments and rooms would meet the minimum gross internal areas required by the NDSS. The Council is concerned that the built-in storage areas for most proposed apartments and the main bedroom widths in flats 15 and 16 would fall below the NDSS requirements but has not stated whether the amended site and floor layout plans address these issues. However, as increased widths for the main bedrooms in flats 15 and 16 are shown, and a suggested condition would ensure details and provision of adequate internal storage, I am satisfied that the proposed internal space would be adequate to meet future occupants' needs.
20. Consequently, whilst the development would provide acceptable future living conditions in relation to internal space, I conclude that it would provide unacceptable living conditions for future occupiers, with particular regard to accessibility and outlook. Further, there has been a failure to demonstrate that the proposal would provide acceptable living conditions in terms of light to some apartments. This would be contrary to Policies KP2 and CP4 of the CS and Policies DM1, DM3 and DM8 of the DMD. Together, these require development to be flexible to meet the changing needs of residents and to provide acceptable living conditions for future occupants, having regard to outlook, daylight and sunlight, amongst other things.

Affordable housing and education

21. CS Policy CP8 requires all residential proposals of 10-49 dwellings to make affordable housing provision of not less than 20% of the total numbers of units on site. DMD Policy DM7 sets the types of affordable housing required and which in this case equates to two affordable rented units and two shared ownership flats.
22. The appellants appraised the proposed scheme on a residual land value basis and compared the resultant land value with the benchmark existing land value (BLV) based on an existing use plus premium or alternative use valuation of the site. The results are outlined in the affordable housing viability report (the report). The BLV was assessed to be around £400,000, taking into account the refurbishment costs to bring the buildings up to lettable standard and factoring in fees, costs and a developer's return. Using this BLV, the report concluded that development with no affordable housing would generate a deficit equating to minus £127,174. This deficit would be significantly greater if the scheme were to include the number and tenure of affordable dwellings required by Policies CP8 and DM7.
23. The Council employed valuers to review the report (the review). The review accepts many of the assumptions made in the report. However, in contrast to the report, it concludes that the buildings are beyond economic repair and not

capable of being refurbished. Therefore, the assumptions used in the review to derive the BLV are based on the costs and fees associated with demolishing the existing buildings and constructing a new unit and the revenue which would be generated from this. On this basis, the review assesses the BLV to be around £71,000. Using its calculations of the value of the proposed scheme, the review finds that there would be a surplus of around £240,000 which could be used towards the provision of affordable housing.

24. At my site visit, I observed that the existing buildings are in very poor condition with significant damage to walls, ceilings and floors. The evidence indicates that the site has not been used since 2011 when it was removed from the VOA rating list due to fire damage which rendered the property incapable of beneficial occupation. There is limited evidence before me that the buildings are structurally sound and capable of refurbishment.
25. Therefore, I consider that the appellants have significantly overvalued the BLV of the site. As this affects the extent of any surplus or deficit generated by the proposed scheme, it has not been adequately demonstrated that affordable housing, be it on-site provision or an off-site contribution, could not be provided.
26. The Council's fourth reason for refusal also relates to the lack of a formal undertaking to secure planning contributions to mitigate impacts on secondary education. The appellants have submitted a unilateral undertaking (UU) which includes a planning obligation in this respect. However, as I am dismissing the appeal for other reasons, it has not been necessary for me to consider this matter in any further detail, including whether it complies with CS Policy CP6.
27. Therefore, I conclude that there has been a failure to demonstrate that the proposal could not make adequate provision for affordable housing, taking into account the financial viability of the scheme. This would be contrary to Policies KP2, KP3 and CP8 of the CS and Policy DM7 of the DMD. Together, these seek to ensure that infrastructure required as a consequence of developments, including affordable housing, is provided.

Other Matters

28. The Council did not find harm or development plan conflict in relation to several other matters, including the principle of residential development, dwelling mix, highways and parking, living conditions of neighbouring occupiers, reducing carbon emissions, water efficiency, flood risk and drainage, waste and recycling storage, noise and ecology. 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.
29. The proposed development 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 (RAMS). However, notwithstanding the RAMS contribution in the UU, there is no need to consider the implications of the proposal on the protected sites because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

30. The Council accepts that it has an under-supply of housing against the required five years, and appeal decisions¹ have confirmed this. According to the recent appeal decision for 135 Marine Parade, Leigh-on-Sea, the Council's current position is a 4.18 year housing land supply agreed in July 2023. This equates to supply of 5,904 dwellings when measured against a need calculated using the Government's standard methodology with a 20% buffer. The Housing Delivery Test 2022 confirms delivery at 31% over the past three years, equating to a shortfall of 2,100 homes. This is one of the lowest delivery rates in the country and significantly below the 75% referred to in the National Planning Policy Framework (the Framework). Therefore, there remains a significant shortfall and paragraph 11(d) of the Framework is engaged.
31. 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.
32. The Framework seeks to boost 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 18 additional dwellings to the supply of housing, making better use of previously developed land in a location close to services and public transport. 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.
33. In contrast, the proposal would harm the character and appearance of the area, would provide unacceptable living conditions for future occupiers and has failed to demonstrate that the proposal could not make provision for affordable housing. The Framework requires development to be sympathetic to local character, development that is not well designed to be refused and decisions to provide a high standard of amenity for future users. It also requires the needs of groups with specific housing requirements to be addressed. I have concluded that the proposal would conflict with Policies KP2, KP3, CP4 and CP8 of the CS and Policies DM1, DM3, DM7 and DM8 of the DMD. These matters combined carry significant weight against the scheme.
34. Consequently, the adverse impacts I have identified would 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.
35. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright

INSPECTOR

¹ Appeal Refs: APP/D1590/W/23/3327261 and APP/D1590/W/22/3312036