



Appeal Decision

Site visit made on 30 August 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2024

Appeal Ref: APP/D1590/W/24/3338940

4 Southchurch Road, Southend-on-Sea SS2 1NE

- 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 Vikesh Kotecha (Skillcrown Ltd) against the decision of Southend-on-Sea City Council.
 - The application Ref is 23/01504/FUL.
 - The development proposed is to erect 2No. additional floors to existing building, alter elevations and railings to rear, install bike store and bin chute.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision to refuse planning permission was issued prior to the revised National Planning Policy Framework published 19 December 2023 ("the Framework"). However, through the appeal process, the main parties have had an opportunity to consider the relevance of the revised Framework to this appeal. Therefore, they would not be prejudiced by me not seeking their views on it. All references in this decision relate to the revised Framework.

Background and Main Issue

3. The appeal site lies within the Zone of Influence of one or more of the designated habitats sites that are scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, Supplementary Planning Document ("the RAMS"). These sites are of nature conservation importance under the Conservation of Habitats and Species Regulations 2017, as amended ("the Regulations") and are subject to statutory protection under EU derived legislation.
4. The Council has confirmed that following a direct payment of the Essex RAMS Tariff fee, it is no longer defending refusal reason number 3. Natural England has confirmed that the appeal proposal would have no significant adverse effects on the designated habitats sites, provided an Appropriate Assessment (AA) confirms that implementation of the strategic mitigation measures in the RAMS are secured by an appropriate legal agreement.
5. As the Competent Authority (CA) I am only required¹ to undertake an AA if I am minded to grant planning consent for the proposal. I will therefore return to this matter later in this decision.

¹ Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017.

6. The Council has advised, based on additional information from the appellant, that the imposition of planning conditions can satisfactorily address refusal reason number 2, regarding refuse collection. On the evidence before me, I see no basis to reach a contrary view.
7. Consequently, having regard to these background matters, the main issue in this appeal is the effect of the proposed development on the character and appearance of the host building and area.

Reasons

8. Southchurch Road (SR) is a wide street fronted on both sides by near continuous rows of predominantly commercial buildings, with ground floor shop style fronts of varying designs, and what appeared to be office space or living accommodation above. The buildings are constructed to different architectural designs, with varied forms and proportions, and from several material types and finishes. Whilst a good number are built to period architectural styles, many others are built to simpler forms, reflecting modern styles.
9. Despite their mixed appearances, the buildings fronting SR comprise predominantly of similar height 3 storey buildings, particularly those fronting the section between High Street and Chichester Road, where the appeal site is located. The consistent heights of the buildings fronting SR is a strong visual characteristic in street level views. It unifies the otherwise mixed appearances of the buildings in the SR street scene, and it distinguishes it from other streets in the city centre where a varying roofline and some markedly tall buildings are a characteristic. Consequently, the consistency in building heights along the SR frontages contributes positively to the distinctive character and appearance of the area.
10. The height of the appeal building, which is consistent with the heights of buildings fronting both sides of SR, reinforces this distinctive and defining visual characteristic, and it therefore contributes positively to the character and appearance of the area. Furthermore, the horizontal emphasis to the appeal building's façade relates to those of several other buildings along SR, and is reflective of the mixed appearances of buildings in the street scene.
11. The tall office-like building and the multi-storey car park at the Victoria Shopping Centre ("the VSC") can be glimpsed in short and long-distance views from SR, and are partly visible with the appeal site. However, those buildings are set well back from the frontage to SR and behind a lower height element equivalent to the heights of the buildings fronting the south side of SR. As such, the tall buildings at VSC do not read as a characteristic part of the SR street scene, nor do they strongly influence or noticeably disrupt its consistent building heights.
12. The tall Travelodge building is set too far south of SR to read as a characteristic part of its street scene or strongly influence its appearance and townscape. In street level views from the section of SR between High Street and Chichester Road, only a slight glimpse of the top of the Travelodge can be obtained above the roofline of the appeal building, and through the narrow gap between it and the building to its west.
13. The elevated bulk of the appeal development would project well above the consistent heights of the existing row of buildings fronting SR. Seen in both

close and longer distance views, the height and massing of the proposed development's façade and flank elevations would loom large and dominant in the street scene. The recessed front wall of its top floor would have a negligible effect on alleviating the visual massing and dominance of the proposed development in the street scene, given the forward positions of its roof and flank walls.

14. Consequently, the appeal proposal would disrupt the consistency of building heights fronting SR and would appear markedly out of scale and visually dominant. As such, it would constitute an incongruous addition to the street scene that would cause significant harm to the character and appearance of the host building and area.
15. In close distance street level views from SR, it is highly unlikely that the Travelodge would be visible projecting above the taller proposed development, as it is shown in the appellant's imagery. This elevated view may be possible from the upper floors of the VSC and its multi-storey car park. However, it would not alter my conclusion that the appeal proposal would result in harmful effects in street level views, which is how most observers would experience it.
16. For these reasons, the tall buildings in the wider area, including those at the VSC and the Travelodge, do not set a visual context for the appeal proposal, nor would they satisfactorily absorb or mitigate its harmful visual effects. In my view, their considerable heights serve to emphasise the distinctive consistency of building heights fronting SR, reflecting the hierarchy of streets in this city centre location.
17. The materials and the relatively simple architectural style of the appeal proposal would not, as a matter of principle, be incompatible with the mixed building styles and materials in the area. The well-ordered pattern of vertically aligned window apertures would be broadly consistent with those in the closest buildings to the east. The contrasting cladding to the external surfaces of the top floor of the proposal would have a recessive colour tone. Together with its recessed front wall, it would add interest and relief to the façade. The expanse of the brickwork would be alleviated through its proposed detailing.
18. Taken in isolation to the appeal site's context, the design of the appeal proposal would not be objectionable. The Council² has no objection to the principle of increasing the appeal building's height. However, neither considerations would alter my conclusion that the height, scale and massing of the appeal proposal would cause significant harm to the character and appearance of the host building and area, when seen in its context.
19. Paragraphs 85 and 98 of the Townscape Guide 2009 ("the SPD")³ advise that increased building heights will only be considered where it provides variety within an area where a varying roofline is a characteristic, or where it acts as a landmark, defines a node, or provides a presence to an open space. Limited evidence is before me to demonstrate that any of these considerations in the SPD would apply to the appeal proposal, and there is no suggestion that the scale and design of the appeal proposal would contribute to 'landmark' status, particularly given the several notably tall buildings in the wider area. For the preceding reasons, the appeal proposal would be over scaled and dominant in

² Paragraph 6.9 of the Officer's report.

³ Southend-on-Sea Supplementary Planning Document 1, Design and Townscape Guide 2009.

relation to the existing buildings in the street scene, contrary to the SPD's guidance.

20. There is limited evidence before me to indicate that the future delivery of other comparable developments in the area, including under permitted development rights, would satisfactorily mitigate the appeal proposal's harmful visual effects. As such, the possibility of the character and appearance of the area changing in the future does not alter my conclusions on this main issue. An absence of conflict with any formal heritage or townscape protections or designations does not weigh in favour or against the appeal proposal.
21. For the reasons given above, I conclude on the main issue that the appeal proposal would cause significant harm to the character and appearance of the host building and area. As such, it would be contrary to Policies KP2 and CP4 of the Southend on Sea Borough Council Core Strategy 2007 ("the CS"), and Policies DM1 and DM3 of the Southend on Sea Borough Council Development Management Document 2015 ("the DMD"), insofar as they require additions to buildings to be respectful and subservient to the original building and the surrounding area, and for development to be well-designed and respectful of its local context and townscape setting in terms of its height, scale, form and massing, amongst others.
22. The proposal would conflict with the Framework's requirement in Paragraph 124.e) for upward extensions to be consistent with the prevailing height and form of neighbouring properties and the overall street scene, and be well designed. It would also conflict with Paragraph 135.c) insofar as it requires development to be sympathetic to local character, including the surrounding built environment. Consequently, it would not be the well-designed development that the Framework seeks.

Other Matters

23. The Council's evidence indicates that it is able to demonstrate a 2.9 year supply of housing land, which represents a sizeable shortfall against the housing requirement. Therefore, the delivery of 9 additional housing units would make a modest but nonetheless valuable contribution to boosting housing supply in a location where it is supported by the development strategy as a matter of principle.
24. The proposal would use previously developed land (PDL) and would benefit the local economy through construction and occupation. Energy usage and water consumption could be controlled by conditions, and a proportion of its energy needs could be generated by on-site renewables. The appeal site's location would reduce the need to travel, and public transport availability would encourage travel other than by private car. These aspects would be beneficial to the environment, including through reducing greenhouse gas emissions.
25. The appeal site is not within a Conservation Area or a part of the City where public views are formally protected. Adequate living conditions for future occupiers would be provided and no harm would be caused to the amenity standards of existing users of nearby properties, or to ecology, biodiversity or flood risk. However, an absence of harm in these respects would be a requirement of any well-designed development. As such, these factors do not weigh in favour or against the proposal, nor would they alter my conclusions on the main issue.

Planning Balance and Conclusion

26. The provision of housing would, as a matter of principle, be consistent with the development strategy in CS Policy KP1, which supports delivering housing in central Southend. Maximising the use of PDL, and making best use of it, would be consistent with elements of CS Policies CP4 and KP2. However, those policies also require development, including on PDL, to be well-designed and to respect the character and scale of the area, which the proposal would fail to achieve.
27. The harm identified would bring the development into conflict with CS Policies KP2 and CP4, and DMD Policies DM1 and DM3. The benefits of the appeal proposal, including the delivery of a modest number of additional homes on PDL, and the economic and environmental benefits attributed to its design, construction and occupation, would weigh moderately in its favour. However, cumulatively those benefits would be insufficient to outweigh its significant harm to the character and appearance of the host building and area. Consequently, the appeal proposal's conflict with the above policies would bring it into conflict with the development plan when read as a whole, and this weighs significantly against the grant of planning permission in this instance.
28. The Council's current housing land supply means that Framework Paragraph 11.d) is relevant. In that scenario planning permission for the proposed development should be granted unless, under Framework Paragraph 11.d)i., the application of the policies in the Framework that protect areas or assets of particular importance⁴ provides a clear reason for refusing the development or, under Framework Paragraph 11.d)ii., any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
29. The habitats sites referred to above are protected areas or assets of particular importance to which Framework Paragraph 11.d)i. applies. The appeal development has the potential to cause significant adverse effects on the integrity of those habitats sites. However, as I am dismissing the appeal for other reasons, it is not necessary under Regulation 63(1) for me to undertake an AA. Even if I were to conclude through an AA that measures could be put in place to avoid or mitigate the appeal proposal's potential significant adverse effects on habitats sites, an absence of harm would not weigh positively in its favour.
30. However, if I was able to conclude that payment of the RAMS tariff fee would be effective in avoiding or mitigating the proposal's likely significant adverse effects on those habitats sites, then the application of the Framework's policies in Chapter 15, would not provide a clear reason for refusing the development proposed. In that scenario, Framework Paragraph 11.d)ii. would apply and the development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
31. One of the aims of the Framework is to achieve well-designed places, with good design being a key aspect of sustainable development. However, for the above reasons, the appeal proposal would not be well-designed or sympathetic to local character, nor would it be consistent with the prevailing height of

⁴ Footnote 7

neighbouring properties and the overall street scene. As such, it would conflict with Framework Paragraphs 124.e) and 135.

32. Delivering 9 housing units would make a modest but nonetheless valuable contribution to boosting housing supply and addressing the current shortfall. It would add to the mix of smaller homes in this urban location. These are positive attributes of the scheme, particularly when considered against Framework Paragraph 70, and the great weight to be given to the benefits of using suitable sites within existing settlements for homes. However, for the reasons given above, the proposed development would not be acceptable at the appeal site.
33. The appeal proposal would make efficient use of PDL, consistent with the aims of Framework Paragraphs 123 and 124.c), albeit the amount of PDL used would be relatively modest. It could also be built out quickly to deliver the economic benefits referred to above, albeit those benefits weigh only moderately in its favour, given its modest scale.
34. The appeal proposal would use resources efficiently and could include on-site renewables, thus contributing positively to the Framework's objective of mitigating and adapting to climate change. The appeal site's location would be consistent with the objective of reducing the need to travel and providing opportunities for travel by public transport. However, given the scale of the development, those environmental benefits weigh no more than moderately in its favour.
35. Taking all the above into account, the appeal proposal's adverse impacts on the character and appearance of the host building and area would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework as a whole. Consequently, the proposed development is not the sustainable development for which the Framework indicates a presumption in favour of.
36. For the reasons given above, the appeal proposal would harm the character and appearance of the host building and area. This would bring it into conflict with CS Policies KP2 and CP4, and DMD Policies DM1 and DM3, and the development plan as a whole. The material considerations, including the benefits of the proposal and the provisions of the Framework, do not carry sufficient weight to outweigh the conflict with the development plan, or indicate that the appeal should be determined other than in accordance with it. I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR