



Appeal Decision

Site visit made on 11 October 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2024

Appeal Ref: APP/D1590/W/23/3331891

6 Hartington Place, Southend-on-sea, Essex SS1 2HN

- 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 Richard Higgs (Brad Beck Ltd) against the decision of Southend-on-Sea City Council.
 - The application Ref is 23/00623/FUL.
 - The development proposed is a second floor extension to create additional flat with private parking and balcony amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. 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. I will return to this matter later in my decision.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - The living conditions of the occupiers of Numbers 17A, 17B, 19 and 21 Pleasant Road with particular regard to outlook, and the occupiers of Numbers 23A/23B Pleasant Road, with particular regard to privacy.
 - The character and appearance of the host building and area.

Reasons

Living conditions

4. The considerable massing of the side wall of the appeal building is clearly visible in close distance views from the short rear gardens of Numbers 17A, 17B, 19 and 21 Pleasant Road, and from the rooms in those properties that are served by rear facing windows. These include a number of windows in the rear projecting outriggers of those properties, which at first-floor level were mostly clear glazed and likely to serve habitable rooms.
5. The proposed extension to the appeal building would markedly increase the height and massing of this side facing wall. Set on the common boundary with

those properties, its elevated bulk and massing would have a dominant and overbearing effect on the outlook of the occupiers of Numbers 17A, 17B, 19 and 21 Pleasant Road, when seen in views from their rear gardens and from the rooms served by the windows in their rear outriggers.

6. The rear garden serving Numbers 23A/23B Pleasant Road, and the other gardens beyond it, already experience a level of mutual overlooking. This includes views from the existing recessed balcony in the rear wall of the appeal building.
7. However, the appeal proposal would result in a number of additional bedroom windows, including those serving an additional household, set at an elevated level in the rear wall of the appeal property and directly on the garden boundary with Numbers 23A/23B. As such they would provide occupiers of the appeal building with elevated and relatively wide-angle views across the rear gardens of Numbers 23A/23B, at very short distances.
8. Even taking account of the existing balcony, views out of those windows would cause a harmful loss of privacy to the occupiers of Numbers 23A/23B, and an increased perception of being overlooked. Fitting obscure glazing to prevent overlooking from the proposed landing/stairwell window would not overcome this harm.
9. The existing east facing first floor windows serve the landing/stairwell and bathroom, which are rooms that occupiers are unlikely to congregate within. Blocking-up these windows would therefore have a negligible beneficial effect in reducing any perception of overlooking of the properties to the east. This would be insufficient to outweigh the harm I have identified.
10. The appeal proposal would therefore conflict with the guidance in the Southend-on-Sea Supplementary Planning Document 1, Design and Townscape Guide 2009 ("the SPD"), which advises that development should avoid undue visual intrusion or compromise privacy.
11. I therefore conclude on this main issue that the proposed development would cause significant harm to the living conditions of the occupiers of the properties referred to above, with particular regard to outlook and privacy.
12. Consequently, 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 well-designed development that secures good relationships with existing developments, and does not have a detrimental impact on the living conditions of neighbouring residents, including through privacy and outlook.
13. For the same reasons there would be conflict with Paragraph 135.f) of the National Planning Policy Framework ("the Framework"), which requires well designed development that creates places with a high standard of amenity for existing users.

Character and appearance

14. The appeal site fronts onto a residential street that is predominantly fronted on both sides by rows of 2 storey dwellings, mostly arranged in terraces, and set on consistent building lines behind short front gardens. Although built to

similar sizes with pitched roofs, the terraces on either side of the road are of a different appearance. On the same side as the appeal property, they consist generally of period style dwellings finished in light coloured render, whereas those on the other side consist of simpler, modern style buildings built from dark coloured brick with steeper roofs.

15. Moreover, the roof eaves and ridgelines of the buildings on both sides of the road tend to vary considerably in the street scene. They feature a series of pronounced steps that respond to the slope in land levels, which rise markedly from west to east. The parapet walls of the building at the junction with Pleasant Road, which in street level views appear to rise above all other buildings on the north side of the street, provide additional variety to the roof forms in the rows.
16. The varied rooflines of the buildings fronting Hartington Place are therefore a strong characteristic of the street scene and they contribute to its somewhat mixed character and appearance. The appeal building's flat roofed form and appearance is very different from the pitched roofed terraced buildings, and it contributes to the varied rooflines of buildings in the street scene. It is set forwards of the building line and relates more to the box-like form and forwards position of the building at the corner of the junction with Pleasant Road.
17. In this context, the flat roofed form of the proposed extension takes its design reference from the building's lower floors and would be in-keeping with its style and appearance. Its recessed front wall, notwithstanding the forward projecting screen wall, would reduce the perception of its height and create a cohesive hierarchy to its built form. Together with its dark coloured walls, its scale and appearance would maintain the visual primacy of its façade. For these reasons, the proposed extension would appear as a sufficiently subordinate addition to the appeal building and would reinforce the individuality of its appearance.
18. In the context of the street scene's sloping land levels and varying roofline, the extent to which the proposed extension would project above the roofs of the flanking buildings would be relatively modest. This would be particularly so when seen in street level views with the tall main core of the building at the junction with Pleasant Road.
19. Seen in these views, the recessed front wall of the proposed extension and the dark colour finish to its walls would reduce the appeal building's elevated scale and massing. In longer distance views looking east, the roofs of the nearby terraces would screen a sizeable proportion of its west facing elevation. As such, the parts of the proposed extension that would be visible in the street scene would not loom large, nor have undue visual prominence.
20. Consequently, the proposed extension would complement the design of the appeal building and would respect the characteristically varied rooflines in the roofscape. As such, it would not be a visually dominant or incongruous addition to the street scene, consistent with the overarching guidance on roof extensions, particularly in SPD paragraphs 98, 374 and 376.
21. I therefore conclude on this main issue that the proposed development would not be harmful to the character and appearance of the host building and area, consistent with CS Policies CP4 and KP2, and DMD Policies DM1 and DM3,

insofar as they seek to ensure that development is respectful of its local context and surroundings, including its townscape setting, having regard to factors including height, scale, form and massing.

22. For the same reasons the proposal would be consistent with Framework Paragraphs 124.e) and 135.c) which seek to ensure that development is sympathetic to local character, including the surrounding built environment, and that extensions are consistent with the prevailing height and form of neighbouring properties and the overall street scene.

Other Matters

23. The Council is unable to demonstrate a 5 year supply of housing land within its area and the Housing Delivery Test shows underperformance in housing delivery. The proposed development would make a small but valuable contribution to boosting housing supply. It would contribute to the economy through construction and occupation, and it would intensify the use of previously developed land (PDL) in a location consistent with, as a matter of principle, the Council's development strategy.
24. The appeal site is close to facilities, services and public transport, reducing the need for future occupiers to travel. Generating energy through on-site renewables would reduce greenhouse gas emissions, contributing to the scheme's environmental benefits.
25. The appeal site is not within the Green Belt or at risk of flooding. Even if the proposed development would lead to cessation of a commercial use on the appeal building's ground floor, there is no substantive evidence that it is causing harm. Therefore, its replacement would be a neutral factor that would not alter my conclusions on the main issues.
26. An absence of harm to the character and appearance of the host building and area would be a requirement of any well designed development and does not weigh in favour or against the proposal.
27. There is nothing before me to demonstrate that a scheme for an upwards extension to the appeal building, carried out under permitted development rights, would have similar or worse effects on the living conditions of nearby occupiers than the appeal development. As such, it is a matter of limited weight to my consideration of this appeal.

Planning Balance

28. The provision of housing in this location, including on PDL, would align with elements of CS Policies CP4 and KP2. However, those policies, and DMD Policies DM1 and DM3, also require development to avoid detrimental impacts on the living conditions of nearby residents. The harm to the living conditions of nearby occupiers, as described above, would conflict with those policies and the development plan when read as a whole. This weighs significantly against the grant of planning permission in this instance, and it outweighs the limited weight that I attach to the cumulative benefits of the appeal proposal.
29. Framework Paragraph 11.d) is relevant given the Council's current land supply position and in that scenario planning permission for the proposed development should be granted. That is unless, under Framework Paragraph 11.d)i., footnote 7, the application of the policies in the Framework that

protect areas or assets of particular importance provide a clear reason for refusing the proposed development.

30. The habitats sites referred to in the evidence before me are protected areas or assets of particular importance to which Framework Paragraph 11.d)i. applies. The Council is satisfied that the appellant's direct payment of the tariff-based contribution towards implementation of the strategic mitigation measures in the RAMS would mitigate any significant adverse effects on those sites arising from occupation of the proposed development. The need for me to determine whether or not this would be the case through undertaking an Appropriate Assessment (AA) under 63(1) of the Regulations, would only be necessary if I was minded to grant planning permission.
31. However, if I was able through an AA to conclude with certainty that the proposed development's potential significant adverse effects on those habitats sites would be adequately mitigated, then Framework Paragraph 11.d)ii. would apply. In that scenario, planning permission for the proposed 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.
32. The proposal would appear capable of being delivered quickly to bring economic, social and environmental benefits, and contribute to boosting housing supply. It would make efficient use of PDL, in an urban location where it would reduce the need to travel. These benefits align with several policies in the Framework, however given the small scale of the proposed development they are cumulatively of limited weight in its favour. Mitigating harm to habitats sites would not be a benefit of the proposal.
33. The appeal proposal's adverse impacts on the living conditions of the nearby occupiers would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. Consequently, the proposed development is not the sustainable development for which the Framework indicates a presumption in favour of.

Conclusion

34. For the reasons given above, the appeal proposal would 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. I therefore conclude that the appeal should be determined in accordance with the development plan and dismissed.

G Sylvester

INSPECTOR