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## Appeal Decision

Site visit made on 24 April 2025

by **Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

**Decision date: 09 May 2025.**

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### **Appeal Ref: APP/D1590/W/23/3331464**

#### **7 - 9 Landsdown Avenue, Leigh-on-Sea, SS9 1LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr G Hutchinson against the decision of Southend-on-Sea City Council.
  - The application Ref is 23/00549/AMDT.
  - The application sought planning permission for demolish existing buildings and erect two semi-detached dwellinghouses with amenity space to rear, lay out parking, hard and soft landscaping (Amended Proposal) without complying with a condition 2 attached to planning permission Ref 19/01305/FUL, dated 9 September 2019.
  - The condition in dispute is No.2 which states that: The development hereby permitted shall be carried out in accordance with the approved plans: 15015-01; 15015-04; 15015-05.
  - The reason given for the condition is: To ensure that the development is carried out in accordance with provisions of the Development Plan.
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### **Decision**

1. The appeal is dismissed.

### **Application for costs**

2. An application for costs was made by Mr G Hutchinson against Southend-on-Sea City Council and this is the subject of a separate Decision.

### **Main Issue**

3. The main issue in this case is the effect of the development as built, in terms of detailed design, choice of materials and appearance, on the character and appearance of the site, and the immediate streetscene.

### **Reasons**

4. The site was formerly occupied by Chalkwell Park Motors, a car sales, servicing and repairs business. Following grants of planning permission including 19/01305/FUL (the 2019 permission), a pair of two-storey houses, with habitable space in the roof, was constructed. The street is occupied mainly by two-storey traditional houses, many of which are semi-detached properties or in short terraces.
5. As paragraph 2 of the National planning Policy Framework (NPPF) states, *"Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate*

*otherwise*". Policies KP2 and CP4 of the Core Strategy 2007 (CS) and Policy DM1 of the Development Management Document 2015 (DMD), and the Southend-on-Sea Design and Townscape Guide (2009) all require good design.

6. Good design is a fundamental requirement of new development in order to achieve high quality living environments. As paragraph 131 of the NPPF states: "*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*".
7. Overall Landsdown Avenue has a cohesive character which includes many common features such as a regular rhythm of well detailed two storey bay windows with gable tops and porches of various designs. The houses are all of a consistent scale with matching eaves and ridge heights, gabled roofs, and are set on a consistent building line with short front gardens. Overall this is an attractive street with a strong character.
8. The appellant points to houses opposite the appeal site which have a variety of window styles and shapes, among other details. These are not exemplars of appropriate appearance that new development should follow. The neighbours to the appeal site, at Nos.11 to 19, are of good appearance, and were clearly the starting point for the design of the pair of appeal dwellings.
9. The initial design of Nos.7 and 9, as granted planning permission by the 2019 permission, clearly related well to their neighbours and added value to their surroundings. Whilst the result, correctly, would not be a pastiche of the neighbours, and they would stand as modern buildings, their principal features and proportions would reflect this part of the street to the benefit of the character and appearance of the area. The details that were approved following the application for approval of details reserved by condition 3 of the 2019 permission followed this approach of securing good design and harmony with these neighbouring houses.
10. The main shortcomings of the design of this pair of houses as built are that the windows do not relate to the vertical emphasis of the bays and so produce an incongruity, the failure to use uPVC sliding sash windows that are such a feature of the adjoining houses is inappropriate, and the double centre rails of the installed windows are too bulky. At the same time, the degree of ornamentation that was intended by the approval of the cast sandstone bay window surrounds has not been provided. These relatively plain surrounds were a reasonable compromise compared to the ornate bay pillars to the window surrounds on the historic houses<sup>1</sup>.
11. To deal with a number of points made by the appellant, it is true that the approved scheme allowed for a setback between the 2 houses, which does not reflect the neighbouring houses or the street generally. This, it seems to me, represented a pragmatic approach, reflecting that it was not the intention to seek to replicate the historic houses, but to achieve a satisfactory relationship with the immediate context. It is also pointed out that previously the site was completely in contrast to the character and appearance of the residential area. Whilst true, this statement does not mean that any design, in some way better than that previously existing, should be found acceptable.

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<sup>1</sup> 'Historic' is used in the sense of pre-existing and of a certain age.

12. The appellant also contends that, since the submission relates to the provision of two new dwellings, 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 NPPF taken as a whole (the so-called ‘tilted balance’)<sup>2</sup>. The basis for this stance is that the council is unable to demonstrate a five-year housing land supply and has also failed the Housing Delivery Test. In addition, it is accepted by the council that there is a need for family housing. The tilted balance applies for the purpose of determining planning applications for residential development.
13. I regard this argument as totally ill-founded. The application is not for new residential development, but for approval of details of the front elevations of the 2 houses that have been built. Whether the appeal is allowed or dismissed there will be no gain in the number of dwellings provided in the city. The 2 houses will already have been accounted for in the calculations of housing land supply.

### **Conclusion**

14. The front elevations of the houses as built are harmful to the character and appearance of the 2 houses and the streetscene. This is because the windows relate poorly to the vertical emphasis of the bays and so produce an incongruity. In addition, the uPVC frames are not sliding sash windows, which are such a feature of the adjoining houses and would be appropriate to the design of the street facing façade, and the double centre rails of the installed windows are too bulky. At the same time, the degree of ornamentation that was intended by the approval of the cast sandstone bay window surrounds has not been provided. This is to the detriment of the character and appearance of the site, and the immediate streetscene.
15. For these reasons the appeal will be dismissed.

*Terrence Kemmann-Lane*

INSPECTOR

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<sup>2</sup> NPPF paragraph 11d) ii.