



Appeal Decision

Site visit made on 12 June 2014

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 July 2014

Appeal Ref: APP/D1590/A/14/2211106

Esplanade House, Eastern Esplanade, Southend-On-Sea, Essex, SS99 1YY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Robert Leonard Estates Limited against the decision of Southend-On-Sea Borough Council.
 - The application Ref 13/00869/EXTM, dated 19 June 2013, was approved on 19 September 2013 and planning permission was granted subject to conditions.
 - The development permitted is Hybrid Application to demolish the existing buildings, erect mixed development comprising 216 flats, 64 bedroom hotel, restaurant and retail floor space in 4, 5, 7 and 12 storey blocks with piazza, semi-underground and surface car parks, cycle parking, associated infrastructure (full application) and use the land fronting Burnaby Road for affordable housing (outline application) (application to extend the time limit for implementation of 10/00140/FULM granted on 16/08/2010).
 - The condition in dispute is No 01 which states that: *"The development hereby permitted shall be begun not later than two years beginning with the date of this permission."*
 - The reason given for the condition is: *"Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990."*
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Application for Costs

1. An application for costs was made by Robert Leonard Estates Limited against Southend-On-Sea Borough Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and the planning permission Ref 13/00869/EXTM for Hybrid Application to demolish the existing buildings, erect mixed development comprising 216 flats, 64 bedroom hotel, restaurant and retail floor space in 4, 5, 7 and 12 storey blocks with piazza, semi-underground and surface car parks, cycle parking, associated infrastructure (full application) and use the land fronting Burnaby Road for affordable housing (outline application) (application to extend the time limit for implementation of 10/00140/FULM granted on 16/08/2010) at Esplanade House, Eastern Esplanade, Southend-On-Sea, Essex, SS99 1YY, granted on 19 September 2013 by Southend-On-Sea Borough Council, is varied by deleting condition 01 and substituting for it the following condition:
 - 1) The development hereby permitted shall be begun not later than three years beginning with the date of this permission.
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Procedural Matter

3. I have considered the appeal, having regard to the Government's planning guidance which came into force in March 2014.

Background and Main Issue

4. The appeal relates to a hybrid planning permission (part full and part in outline) for the redevelopment of the former Esplanade House site, now demolished. The Council first granted planning permission for the scheme in August 2010 but, by June 2013, as it remained unimplemented, a new application was made.
5. The main issue is whether the condition imposed on the latest permission, restricting the time limit period for implementation to that of two years rather than the standard three year period, is reasonable and necessary in the interests of the character and appearance of the area.

Reasons

6. Section 91 of the Town and Country Planning Act 1990 (as amended) stipulates that development must be begun not later than the expiration of a period of three years from the date the permission is granted or within any such other period (whether longer or shorter) which the Authority consider appropriate having regard to the provisions of the development plan and other material considerations.
7. In this particular instance the Council indicates that material considerations were identified which warranted the implementation time period being reduced. It was considered that the continued failure to bring this substantial site forward would prejudice the future redevelopment of the wider area, including an adjacent site on Eastern Esplanade which also benefits from an extant planning permission, and for which the appellant similarly holds an interest.
8. In reaching its decision the Council took into account the site's planning history, that the site had mostly lain derelict since the 1990's and the fact that the first planning application proposing its redevelopment had been submitted in 2005. The appellant cites the economic downturn as the reason why the planning permission was not implemented during the three years following the original permission being granted, but the Council raised concerns as to the effect of the site's appearance upon the character of the area. However, at my site visit I noted that the former Esplanade House has been demolished with the site cleared and surrounded by hoarding. This would tend to confirm an intention to implement the planning permission. From the seafront side of the Esplanade, in particular, wide views can currently be gained across the site towards a modern housing development beyond the site's rear boundary, and I do not consider the site's appearance as having a negative effect on the area's character.
9. The appeal site falls within the seafront area which the Council's Core Strategy identifies as a 'Priority Urban Area', where appropriate regeneration and growth, including new housing development, will be focussed and supported in principle. The approved mixed use scheme would contribute 216 new dwellings to the Borough's housing stock, of which 27 would be 3-bed units. A significant portion of the site would also be given over to affordable housing, the subject of the outline element, which is likely to eventually include a number of larger

family units, the need for which is greatest in respect of affordable accommodation.

10. In terms of design the proposal is contemporary and simple in form and is set attractively around a public square, and the units' standard of accommodation would be satisfactory. The Council does not consider that the proposal would have significant implications for the living conditions of existing residential occupiers, and I agree with this consideration. In terms of planning obligations the appellant has entered into a Section 106 agreement with the Council which, amongst other things, would provide for educational contributions, highway improvements, a cycling contribution and also the upgrading of bus stop infrastructure. The affordable housing element would also be delivered through the agreement which has been updated by means of a Deed of Variation, signed by the relevant parties in September 2013. The various obligations remain necessary to make the development acceptable and are directly, fairly and reasonably related to the development. As such, they would meet the statutory tests set out in the National Planning Policy Framework (the Framework).

11. The appellant indicates that the Council's decision will lead to greater uncertainty, making it significantly more difficult for the development to be commenced within the reduced time limit. In illustration, the appellant points to the fact that the planning permission has fourteen pre-commencement conditions attached, as none were discharged subsequent to the 2010 permission. Specifically, I note that Condition 17 requires for comprehensive investigative works concerned with possible land contamination issues which, dependent on the findings, can represent a lengthy exercise. Given the number of conditions imposed, the appropriateness of which I have also assessed, I consider that reducing the implementation period could impede the process of discharging the pre-commencement conditions and would be counter-productive to achieving the Council's regeneration aims for this 'Priority Urban Area'.

12. I consider the proposal to be in accordance with the local development plan, and also the Framework's objectives, and there are no justifiable reasons for restricting the development to a time limit implementation period of only two years. I thereby conclude that Condition 01 was neither reasonable nor necessary. In the circumstances I am varying the planning permission by imposing a condition requiring, instead, that the standard time limit period of three years be observed.

Other Material Considerations

13. In allowing the appeal I have considered the other conditions attached to the planning permission and I conclude that all those imposed are necessary and reasonable in the circumstances.

Conclusion

14. For the reasons given above I conclude that the planning permission should be varied as set out in the formal decision.

Timothy C King

INSPECTOR