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## Appeal Decision

Site visit made on 31 January 2018

by **Timothy C King BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 March 2018

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**Appeal Ref: APP/D1590/W/17/3182743**

**10 Underwood Square, Leigh-on-Sea, Essex SS9 3PB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Intex Properties Ltd against the decision of Southend-on-Sea Borough Council.
  - The application Ref 17/00234/FUL, dated 6 February 2017, was refused by notice dated 14 June 2017.
  - The development proposed is described as '*Demolition of existing house and garage. Erect 4 No detached link five bedroom houses.*'
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I note that upon registration the Council made a minor change to the description of the development and the appellant was agreeable to this. The change has not materially affected the essence of the proposal.

### Application for costs

3. An application for costs was made by Intex Properties Ltd against Southend-on-Sea Borough Council. This application is the subject of a separate Decision.

### Main Issues

4. The main issues are:
  - 1) The effect of the proposal on the character and appearance of the area; and
  - 2) The effect of the proposal on the living conditions at No 11 Underwood Square, and No 51 Lime Avenue, with particular regard to natural light entry and outlook.

### Reasons

#### *Character and appearance*

5. Underwood Square comprises a centrally placed area of tree-lined open space surrounded by a roadway serving a series of dwellings of differing styles and ages on both its north and east sides. Accessed via Lime Avenue to its south, on its west side, is an expanse of cleared land following the demolition of No 10 or Haydon House. This former dwelling was set in a substantial curtilage. In

- its place it is proposed that the site accommodates a row of four detached dwellings.
6. The dwellings, identical in form and design, would all be to a height of some 2.5 storeys and have steeply pitched gables which the Council acknowledges to be integral to the overall design. Indeed, as an entity in itself, the proposed development with its intended features and cladding would have visual attraction. The good standard of accommodation is acknowledged and I also note the measures to be employed in its construction. Nonetheless, when taking into account the appeal site's contextual setting and the scale of the proposed development I have certain concerns.
  7. At my site visit I noted that land levels drop to the north along Lime Avenue and continue to fall, although less so, northwards across Underwood Square. As a result, the existing two-storey dwelling, No 11, which lies to the north of the development, sits on slightly lower ground. This relationship is not identified or reflected in the submitted plans.
  8. Whilst noting the comments from the Council's Design Officer as to the scheme I also note that the Council's pre-application advice letter referred to the development's physical relationship with No 11. The letter on such comments that there is concern that the resultant height could be significantly above this existing dwelling, and recommends that an acceptable relationship with regard to scale would need to be demonstrated. However, there is little illustrative material before me to address this concern. Indeed, the submitted elevational drawing shows a marked difference in height between No 11 and the nearest new dwelling (House 4).
  9. The new dwellings' front building line would be constant and would roughly align with that of No 11. However, despite the height difference, the distance between the facing flank walls of No 11 and House 4 would be only slightly greater than that between Houses 1 and 2 and also Houses 3 and 4. This would make for an awkward relationship with the existing dwelling. However, considering that No 51 Lime Avenue is substantially forward of the intended building line, despite its relatively lower ridgeline, I do not find any significant visual conflict would result from this particular relationship.
  10. Taking the development as a whole, although the four dwellings would be detached, it would span significantly across this wide frontage and the dwellings would be positioned close to one another, particularly Houses 2 and 3. Moreover, due to the steeply pitched centrally ridged roofs, the height of these four dwellings as a close-knit row, would emphasise and accentuate the development's verticality. This, combined with their massing from the substantial depth, which would be glimpsed from certain points at Underwood Square, would give the impression of a substantial development at odds with local character. Although the dwellings on the north side of Underwood Square are positioned close to one another this is tempered by the variety of styles and designs evident, along with a generally lower ridge height evident.
  11. Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (CS) both refer to making the best use of previously developed land, of which this site is a case in point. This aim is reflected in policy DM3 of the Southend-on-Sea Development Management Document (DMD). However, the policies also stress that new development should respond to local character and appearance in order to ensure an acceptable integration.

12. Supplementary Planning guidance on matters of design is provided by the Southend-on-Sea Design and Townscape Guide (SPD1) which, more specifically, indicates that the successful integration of any new development is dependent upon an appropriate scale, height and massing in relation to the existing built fabric.
13. In this instance the extent and scale of the development as a whole would be dominant in the streetscene and harmful to the character and appearance of the area. Accordingly, I conclude that the proposal would be in material conflict with the design objectives of CS policies KP2 and CP4, DMD policies DM1 and DM3 and also relevant advice within the Council's SPD1.

#### *Living conditions*

14. The Council has raised objections in respect of the proposal's effects on two particular dwellings; No 51 Lime Avenue and No 11 Underwood Square. In this regard I have had regard to the daylight study commissioned by the appellant which concludes that the proposed development would have a low impact on the light received by its neighbouring properties and satisfies the requirements of the BRE publication 'Site layout planning for daylight and sunlight: a guide to good practice'(BR 209). I have also noted the series of shadow diagrams provided with the planning application.
15. Again, considering the relative footprints and orientations, with No 51 sitting to the south of House 1, I am satisfied that the dwelling itself would not be unduly affected by the development. Its rear garden would be overshadowed to some extent by House 1 but the facing flank wall would be positioned adequately from the properties' common boundary. Indeed, degrees of overshadowing would be an inevitable consequence of any new dwelling situated towards this end of the site given the acceptability of the site for residential development, and the probability of No 11's front building line being followed to this end.
16. In contrast, No 11, beyond the opposite end of the site, would sit to the north of the development. Given this orientation, unfavourable to No 11, the proximity of its flank wall to that of House 4, the latter's depth and the drop in land levels, I consider that, when seen from No 11's various side facing windows, the development would appear as somewhat overbearing with a reduced outlook and a resultant visual sense of enclosure. I therefore find that this physical relationship, as proposed, would compromise the living conditions of the occupiers of No 11. This would be particularly contrary to the aims of DMD policy DM1 which comments that protection and enhancement of amenity is essential to maintaining people's quality of life and ensuring the successful integration of new development into its surroundings.
17. On this main issue I conclude that the proposal would be harmful to the living conditions at No 11 Underwood Square. It would also be in material conflict with the requirements of CS policies KP2 and CP4, DMD policies DM1 and DM3 and also relevant advice within the Council's SPD1.

#### *Other considerations*

18. The appellant makes the point of the importance of small sites in the need for new housing. New housing provision is one of the main objectives of the National Planning Policy Framework (the Framework) which, as a strong material consideration, states that applications for housing should be

considered in the context of the presumption in favour of sustainable development. Reference is also made to ministerial statements on the issue of national housing need. I also note that CS Policy CP8 identifies that 80% of residential development shall be provided on previously developed land. Accordingly, I have afforded these matters significant weight.

19. In this particular instance the Council indicates its Strategic Housing Land Availability Assessment (SHLAA) demonstrates that the Council has a six year supply of housing, which accords with the Framework's requirement. This is not a matter of dispute between the main parties. As such, for this purpose, the development plan is not considered out-of-date.
20. The development would bring about benefits, particularly in economic terms, one of the strands of sustainable development. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 says that to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. In this instance I have found that in environmental terms, another strand of sustainable development, undue impacts resulting from the proposal would be harmful and not in accordance with relevant policies in the development plan.
21. I have had regard to the various representations received from interested parties. I have already addressed many of the concerns raised, whilst the appellant has produced evidence to indicate that others highlighted, such as those traffic and ecologically related, are not matters which weigh against the development.

### **Conclusion**

22. I have found harm on both main issues and that there are material policy objections to the proposal. I have taken into account and given appropriate weight to the relevant material considerations but these do not outweigh my findings as to the adverse impacts arising from the proposal.
23. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

*Timothy C King*

INSPECTOR