

Raymond Stemp Associates

Planning and Development Consultants

e-Newsletter September 2009

Appeal Case Bungalow allowed in Chelmsford



RSA represented Mr S Patrick at a planning appeal hearing into the decision of Chelmsford Borough Council to refuse to grant planning permission for the demolition of an adjoining garage and the construction of a bungalow on land at the rear of 44 Patching Hall Lane.

One of the reasons for the refusal of planning permission arose from concerns about the amount of noise from an adjoining electricity substation. The Appellant employed the services of a noise consultant who demonstrated that the development could include adequate noise measures, sufficient to overcome the perceived problem. Prior to the hearing the Borough Council withdrew their reason for refusal relating to noise.

The main reason for refusal was whether or not the scheme, which was prepared by David Cunningham Associates, would undermine the objectives of planning policy relating to creating high quality acceptable places for living and that the proposed building will be well designed and have an appropriate relationship with nearby development.

The Planning Inspector, Mr Roy Foster, considered that there was no particular requirement for any building on the site to match or reflect the design of the houses in Rutland Road as the appeal site is in a transitional area between the distinctively designed estate to the north and the traditional houses in Patching Hall Lane.

The Inspector concluded that the building is well designed and proportioned for this difficult site, given its generally modest and low-key presence and visibility within the street scene and therefore have an acceptable visual relationship with nearby properties.

The Inspector therefore concluded that the scheme would not undermine the objectives of the planning policies and allowed the appeal subject to conditions.

Community Infrastructure Levy

The Government has set out draft regulations for implementing the community infrastructure levy (CIL) which was introduced by the Planning Act 2008. CIL will be discretionary and locally determined by Councils according to their local needs to help raise funding for new infrastructure to support the development of their areas. It will include schools, hospitals, roads and transport schemes, libraries, parks and leisure centres. This should help to unlock more land and enable more development in the future.



The Community Infrastructure Levy



This will be a big improvement on the existing system of collecting pulled contributions for infrastructure from developers based on planning obligation, which often results in lengthy negotiated agreements. CIL will bring improved transparency for communities and developers, and fairness and predictability for the development industry which will be able to plan ahead with more certainty. Councils will have to assess the viability of introducing a levy and ensure that the levels they set stimulate, rather than risk, development.

Appeal Case Nursing home allowed in Southend

RSA represented the Appellants, Castle Heights Limited, in an appeal against the decision of Southend-on-Sea Borough Council to refuse planning permission for the construction of a 46 room residential nursing home with on site car parking for 12 cars.

At the appeal, which was dealt with by way of a hearing, the main issues were identified as the effect of the development on the provision of open space and the effect of the development on the character and appearance of the Sweyne Avenue area of Southend-on-Sea.

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The local education authority disposed of the land at development land value and no indication was given at that time of an expectation of continual open space use. The site is in poor visual condition and subject to unauthorised and anti-social access and represents an underused asset which seriously detracts from the character and appearance of the area.

The Planning Inspector, Mr John Papworth, concluded that the site does not presently perform a function as either accessible space or one that contributes positively to the character and appearance of the area, rather it presently distracts from the amenities of nearby residents. Subject to the merit of the proposed development the Inspector considered that the former use of its limited potential for open space use should not stand in the way of redevelopment.

With regard to the second issue, regard was given to the existing built form on either side of the site comprising substantial structures, Victoria Court and Boston Loft Apartments. The Inspector noted that the proposed height and disposition of the roof and walls of the new building would appear as an agreeable addition. He considered that the line in the elevations to accommodate the turn in the building would add interest to the facade and avoid the street scene being detrimental. He noted that there would remain a large gap between the new building and the former school, allowing views from the cemetery of the tree and from Sweyne Avenue of the open space and trees to the south. The presence of the former school buildings, now four strings of residential accommodation, provides further visual justification for the size and arrangement of the proposed new building.

In conclusion, the Inspector concluded that the loss of the open site would be more than made up for by the development and the opportunity to landscape the site and would be justified in the interest of good planning for the area. For the above reasons the Inspector allowed the appeal subject to conditions.



Southend-on-Sea Borough Council ordered to pay costs



Arising from the above appeal, RSA made an application for an award of costs.

This a case where the officers of the Council had been in discussion with the applicant regarding the design of the development, to the point where they felt able to place a report before committee recommending that planning permission be granted.

The report made it clear, in the Inspector's view, that there was no reasonable chance of the site remaining in recreational use, due to the history of ownership and scale and the opportunities that had existed to purchase the site but which had not been taken up, the most recent being in 2007.

The Planning Inspector noted that the site was not in active use as an existing sports facility or open space, although in planning terms it appeared that there was no positive change to the last use.

The Inspector stated that he had seen no real evidence of need or shortage arising from the loss of the site and the lengthy time that has elapsed since it was last used adds to the view that there is no real shortages.

The Inspector was of the opinion that a refusal on the grounds of the loss of an open space was unreasonable and that there should have been a more balanced decision taking an account of the benefits of the scheme and the likelihood of leisure use, as significant material considerations along with the support by local residents affected by the condition of the existing site.

The Inspector concluded that Southend-on-Sea Borough Council acted unreasonably in refusing the application for the reason relating to the loss of open space which resulted in unnecessary expense being incurred by the Appellants. The Council is ordered to repay these costs.

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