



# Appeal Decision

Hearing held on 14 August 2007  
Site visit made on 14 August 2007

by **Peter J Golder** Dip TP MRTPI

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

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Date: 22 August 2007

## Appeal Ref: APP/D1590/A/07/2042806 136 Broadway, Leigh-on-Sea, Essex SS9 1AA

- 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 Pike and Partners Ltd against the decision of Southend-on-Sea Borough Council.
- The application Ref SOS/06/01039/FUL, dated 21 July 2006, was refused by notice dated 18 October 2006.
- The development proposed is demolition of existing building and erection of part 3/part 4/part 5 storey building comprising 14 flats on upper floors and A1/A3 uses at ground floor, together with garages for 8 cars, layout parking for 9 cars and formation of vehicular access to Maple Avenue.

### Preliminary Matter

1. The description of development set out above in as much as it refers to the form of the proposed building and uses at ground floor level reflects agreement at the hearing. Confirmation of the use of the ground floor for A1/A3 uses is provided by drawing 41/22 revision A; substituted for drawing 41/22.

### Decision

2. I allow the appeal and grant planning permission for the demolition of existing building and the erection of a part 3/part 4/part 5 storey building comprising, 14 flats on the upper floors and A1/A3 uses at ground floor, together with garages for 8 cars and layout parking for 9 cars and formation of vehicular access to Maple Road, at 136 Broadway, Leigh-on-Sea, Essex SS9 1AA, in accordance with the application Ref SOS/06/01039/FUL, dated 21 July 2006 and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
  - 2) None of the hereby permitted dwellings or commercial units shall be occupied until car parking provision for 17 cars has been made within the site and a vehicular access provided to Maple Avenue, all in accordance with the approved plans and details. The parking provision made shall be permanently retained for the parking of vehicles by the occupiers and visitors to the premises and shall not be used for any other purpose.
  - 3) None of the hereby permitted dwellings or commercial units shall be occupied until provision for the parking of cycles has been made within the site in accordance with the approved plans and details and such provision shall thereafter be permanently retained.
  - 4) None of the hereby permitted dwellings or commercial units shall be occupied until secure covered stores have been provided for refuse and recyclables for both residential and commercial uses in accordance with the approved plans and details and such provision shall thereafter be permanently retained.

- 5) None of the hereby permitted dwellings shall be occupied until privacy screens to all balconies and to the eastern boundary have been constructed in accordance with the approved plans and details. Such privacy screens shall thereafter be permanently retained.
- 6) No development shall take place until full details of a scheme of landscaping, including both hard and soft landscape works, have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved prior to the first occupation of any of the hereby permitted dwellings or commercial units. The details shall include the number, size, location and species of all trees and shrubs to be planted together with a planting specification and shall also include means of enclosure; hard surfacing materials; minor artefacts, structures and street furniture and signs and lighting. The details shall also include arrangements for the continued maintenance and management of the "green wall" structure on the eastern boundary of the site and the planting to be integrated with it.
- 7) No development shall take place until a scheme of tree planting within the highway on the Broadway and Maple Avenue frontages as part of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a full specification of the works proposed together with arrangements for their implementation and continued management of the planting comprised in the details. The works shall be carried out in accordance with the approved details prior to the first occupation of the hereby permitted dwellings and commercial units.

### **Main issue**

3. The main issue in this case is the effect of the proposal upon the character and appearance of the locality.

### **Reasons**

4. This proposal is a revision of a scheme dismissed on appeal in November 2005. Significant and substantial changes have been made in an attempt to address the concerns expressed by the Inspector at that time. It is clear that the fundamental difference with the Council is that in their view the proposal remains inappropriate for its particular context.
5. The context for the redevelopment of the appeal site is varied but there is little doubt that it is dominated by the Grand Hotel. This large and imposing building sits in its own space and presents elaborate and ornate facades to the public domain. It is a shame that the space about this prominent landmark is not better cared for, especially as it forms a small projection of the Leigh Cliff Conservation Area. Notwithstanding the poor physical quality of the space about the hotel and other large scale building in the locality it remains the defining feature at the northern end of the Broadway and in local views hereabouts. I agree with the Council that it would be wholly inappropriate were it to be upstaged by other developments.
6. By any measure the Grand Hotel is a difficult building to compete with both physically and visually. It totally commands both its own space and that created around the junction of Broadway and Grand Drive. Here it dominates views when turning the corner in Broadway to go north and from the roads to the south where it is seen in an elevated position. From these directions the appeal building, notwithstanding its scale, would only be seen in part and in my view would have little or no impact upon the prominence of the hotel or its setting.
7. It is only when moving into the northern part of Broadway that the proposed building would be seen as a whole and for a short distance become the focus of the eye. Even here I consider that the dominance and townscape importance of the Grand Hotel would be protected. The two buildings would be offset. This juxtaposition, the distance between the two reinforced by the stepping

back of the two upper floors and the far greater mass of the hotel, all serve to help retain its physical and visual status. Furthermore the widely different architectural treatment of the two buildings with the proposed structure relying more upon form than mass and detailing as at the Grand Hotel again strengthens my view that its presence would not be undermined by the proximity of the appeal scheme.

8. Approaching along the Broadway from the north having turned the corner from Leigh Road the Grand Hotel is seen much more as part of the street frontage being partly shielded by Southdown Court. The redevelopment of the Overton's site adjacent to Southdown Court will give a greater scale and prominence to development on west side of Broadway generally than at present and further consolidate the unity of scale of the street scene, although the hotel will remain the dominant building and one which from this direction sets a frame for more distant views across the River Thames and beyond. As with the Grand Hotel the proposed building would also be seen much more within the context of the street frontage when looking from the north. Neither building is likely to be seen in its entirety; views of both being restricted by the built frontage. The principal focus here to my mind will remain the longer distance view but where substantial parts of both might be seen together I regard the imposing four storey elevation of the Grand Hotel with large chimneys rising above likely to be substantially more dominant than that of the proposed building, where I believe the visual focus would be very much upon the three storey elements on the street frontages.
9. In summary I am satisfied that the important role of the Grand Hotel to the townscape of this part of Leigh-on-Sea would not be diminished by the appeal proposal. To my mind the amendments to the scheme have resulted in a building which would neither compete nor conflict with the presence of the hotel and would not result in a building which would be more prominent than the Grand Hotel in the street scene.
10. While the Grand Hotel is the most dominant reference within the context of the appeal site, it is also important that the proposed building respects and relates to other aspects of its setting. As I have said the Overton's scheme will significantly change the character and appearance of the western side of Broadway. Although very different in terms of its design concept from its neighbours it is a scheme which reflects the transition in scale from the four-storey vertical emphasis of Southdown Court to the smaller scale of the Louis XIV restaurant, an approach it seems to me to be essential to avoid an over dominant structure on this substantial frontage to Broadway. In my opinion the changes which will be brought by the Overton's scheme must be regarded as part of the evolving context for the appeal site and to my mind the proposed building responds well to the overall form of the revamped west side of Broadway.
11. On the east side of Broadway and north of Maple Avenue the scale of building is more domestic; being a terrace of two storey buildings with pitched roofs in retail and business use. Notwithstanding its domestic scale I believe the terrace has considerable visual unity and interest, with stepped roof slopes, overhanging eaves, corbelled supports and upper floor bay windows. This strong identity is enhanced by the lack of immediate neighbours because of the

open corner where Broadway turns into Leigh Road to the north and the gap formed by the junction of Maple Avenue to the south.

12. Clearly the proposed building would be considerably higher and of a greater mass than this terrace of seven units. It would also appear substantially different and I have no doubt that because of this and its relatively stand alone position on Broadway it would have a prominence in the street scene. However I consider the particular identity of the terrace to the north sufficiently strong for it not to be diminished by the greater scale of the proposed building or for the domestic scale of these buildings to be unduly dominated by it. In my view the design response of the appeal proposal is one which takes proper account of its smaller scale neighbours in both Broadway and Maple Avenue while making efficient use of the site.
13. Within the street scene the principal focus of the building would very much be upon the three-storey elements along the frontages of Broadway and Maple Avenue. In my view the design and scale of this aspect of the building would relate well both visually and physically to the smaller buildings around. The significant stepping back of the two upper floors, especially on the east and west sides, and the lighter and more transparent form of the roof structures, would make the upper floors less visible, subservient to the lower part of the building and substantially reduce the impact of the scheme upon the street scene generally and its neighbours in particular. Therefore, even allowing for part of the roof structure being marginally higher than that dismissed on appeal, the overall mass of the building would be both physically and visually substantially less. In my view all of these factors add up to a building which would not be unacceptably prominent in the street scene or appearing out of place and uncharacteristic within the overall and varied built context of the site.
14. I am also of the view that the impact of the building would also be reduced by the significant set back of the ground floor from Broadway and the creation of a covered forecourt to the south. It seems to be that the recreation of a retail frontage along this stretch of Broadway with an enhanced public realm would add a substantial human scale to the proposal as well as fostering a greater sense of place to complement the setting of the Grand Hotel. I consider these aspects of the proposal, coupled with the overall design, sufficient to prevent any sense of the building being overbearing or oppressive for users of the street.
15. In conclusion I find the appeal proposal to be of an innovative and high quality design which responds appropriately to its setting. I consider it accords with the thrust of national planning guidance which seeks the efficient use of previously developed land in urban areas with design solutions of a high quality and which take the opportunity for improving the character and quality of an area. As such I believe the scheme accords with the Council's recently adopted Design and Townscape Guide. For these same reasons I do not regard the proposal as conflicting with policies C11 and H5 of the Southend-on-Sea Borough Local Plan 1994 and policies CS2 and BE1 of the Essex and Southend-on-Sea Replacement Structure Plan 2001 which require new developments to safeguard the character and quality of urban areas and to establish a satisfactory relationship with their surroundings. In my opinion the proposed development meets these tests and is acceptable

16. In coming to this view I have had regard to all other matters raised in the representations and at the hearing including concerns expressed by those at Southdown Court about the effect upon their living conditions. I have no doubt that the proposal would impinge upon the outlook from some windows and effect the amount of light reaching some rooms but not materially so in my view and I find neither this matter nor any other raised sufficient to outweigh those factors which have led to my decision that this appeal should be allowed.
17. The Council have suggested a number of conditions in the event of the appeal being allowed and planning permission granted. I agree that it is necessary for car parking, cycle and refuse storage facilities to be in place before the dwellings are occupied. Similarly the privacy screens are an essential requirement of the scheme to protect the privacy of those in adjoining properties. I am satisfied that the planting and maintenance of the "green wall" privacy screen, necessary to protect the privacy of those at 12 Maple Avenue, can be dealt with by the appropriate wording of the necessary landscaping conditions. The planting proposed within the highway is, to my mind, an important element of enhancing the public realm and creating a sense of place. It is matter which can be addressed by a suitably worded condition which I impose accordingly.

*Peter J Golder*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Mr Kevin Leigh	6 Pump Court, Temple, London EC4Y 7AC
Mr Michael Warner	5 Macintyres Walk, Ashingdon, Essex SS4 3ED
Mr R S Combes	20 Victoria Road, Leigh-on-Sea, Essex SS9 1AU
Mr D R House	Melbury School lane, Borley Suffolk CO10 7AE

### FOR THE LOCAL PLANNING AUTHORITY:

Ms Joanne Kastel	Southend-on-Sea Borough Council
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### INTERESTED PERSONS:

Mr Geoff Fulford	Leigh-on-Sea Town Council, 67 Elm Road, Leigh-on-Sea Essex SS9 1SP
Mr Jerry Holden	West Leigh Residents Association, 20 Lime Avenue, Leigh-on-Sea, Essex SS9 3PA
Ms Pauline Boughtwood	Flat 7 Southdown Court, 133 Broadway, Leigh-on-Sea, Essex SS9 1PJ
Ms Diane Upton	Flat 4, Southdown Court, 133 Broadway, Leigh-on-Sea, Essex SS9 1PJ

## DOCUMENTS

- 1 Attendance List
- 2 Notification Letter and those notified
- 3 Appeal decision APP/D1590/A/04/1168095
- 4 Southend-on-Sea Design and Townscape Guide
- 5 Extract from By Design – page 22 height/street width relationship
- 6 Drawing no 41/22 revA
- 7 2 sheets of photos of locality
- 8 Drawing 41/13 revA – contextual elevations – previous scheme
- 9 Contextual elevation – appeal scheme