



Appeal Decision

Site visit made on 4 December 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2025

Appeal Ref: APP/D1590/W/24/3343129

The Bay Guest House, 187 Eastern Esplanade, Southend-on-Sea SS1 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Hobbs against the decision of Southend-on-Sea City Council.
 - The application Ref is 24/00167/FUL.
 - The development proposed is change of use from Guest House (Use Class C1) to single residential dwelling (Use Class C3) and erection of second floor balcony to front dormer.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The change of use to a single dwelling has already taken place and therefore I am considering that aspect of the appeal retrospectively.
3. A new National Planning Policy Framework (the Framework) came into effect on 12 December 2024. The parties have had the opportunity to comment on whether the changes made have any relevance to their cases and I have taken comments received into account.

Main Issue

4. The main issue is the effect of the change of use on the availability of visitor accommodation.

Reasons

5. The appeal site is a three-storey terraced property, within a built-up frontage facing the seafront. Internally, the accommodation currently includes four bedrooms and three reception rooms. The plans indicate that prior to its conversion, the larger second floor bedroom was divided into two smaller rooms, as was the rear lounge and dining room on the ground floor, with that earlier layout having provided a maximum of eight guest bedrooms.
6. The Southend-on-Sea Development Management Document (DMD) 2015 highlights the importance of tourism and the visitor economy within the city. In order to maintain the role of overnight stays in the local economy, a strategy is defined which prioritises provision and retention of visitor accommodation within Key Areas, including locations with good access and a clear and strong relationship with the Seafront. With Key Areas, Policy DM12 states that visitor accommodation will be retained. However, proposals for alternative use will be considered where it can be demonstrated that the site is

no longer viable or feasible for visitor accommodation and the proposal meets all other relevant planning policies.

7. Paragraph 5.37 of the DMD aids interpretation of Policy DM12, by detailing the information which should support any application for alternative use. In summary, this should include evidence that the site has been marketed for sale for a continuous period of at least two years at a competitive price, together with evidence of business performance including occupancy levels in comparison with industry/destination norms, and professional management including details of marketing and business plans, also over a two year period. While paragraph 5.39 confirms that these requirements may be applied flexibly where smaller businesses are involved, they nevertheless provide clear guidance about the scope of relevant considerations.
8. The planning history of the site includes refusal of an earlier proposal for change of use to two flats in February 2020, with the reasons for refusal including the conflict with Policy DM12. While the property changed hands relatively soon after that decision was made, this recent planning history would have been available to any new owner at that point. However, no evidence has been presented of any marketing of the property as visitor accommodation following refusal of that application and the appellant confirms that it has not been marketed for the required two-year period.
9. Some evidence has been provided of business performance when the site was last used as visitor accommodation, covering a period of around two years from the summer of 2018. This includes several months in which the visitor economy was heavily impacted by the Covid-19 pandemic. Nevertheless, there are financial records for one full year prior to the onset of the pandemic.
10. Prior to the pandemic, only a small profit is shown, despite the fact no staff costs were included. However, the accounts relate to a period when the property was being used to provide accommodation for training of company staff. While the evidence indicates that rooms were also marketed more generally as holiday accommodation, it is not clear what proportion of rooms were available to conventional paying guests or whether income from staff undergoing training was comparable to income from paying guests. Furthermore, the property is described as having been in a dilapidated condition during that period, with cramped second floor bedrooms and significant health and safety concerns.
11. Since then, the property has been significantly upgraded. It was in good decorative order at the time of my site visit, with a more spacious internal layout, particularly on the second floor. Therefore, circumstances have changed, and the accounts and occupancy records provided are not clearly reflective of the property's potential for economic use as visitor accommodation in its current condition.
12. It is argued that only two guest bedrooms could now be made available, due to use of the two front rooms by the appellant's family. However, the property has, in the past, provided four guest bedrooms and it remains capable of doing so, while still providing some accommodation, probably on the second floor, for resident staff or owners. While Policy DM12 does not dictate how many rooms should be dedicated to visitor accommodation in a particular property, it does require that alternative business models are explored. In this case, no evidence has been provided of any engagement with professional

management advice, including the development of marketing or business plans to boost the attractiveness of the appeal site to overnight visitors, or to explore the market for other forms of visitor accommodation.

13. Based on the appellant's assumptions about potential income and costs, a net profit is potentially achievable with four guest bedrooms, albeit at a level below average UK salary. However, that would rely on the owners' own labour, throughout the year, with little headroom to employ staff or take time off. On that basis, there is some evidence that resuming use of the property as a guest house is of marginal financial viability. However, the evidence relies heavily on comparison with the rates charged at one particular guest house nearby. Although that is a similar building, the evidence does not analyse whether the rates charged are representative of industry or destination norms. Nor can any clear conclusion be drawn from the evidence of a deficit on the capital account at that property, since the summary accounts do not reveal how that property is laid out and operated in comparison with the accommodation at the appeal site.
14. Although the appeal site would not provide some of the facilities available at the modern budget hotels nearby, the rooms are well decorated and have an attractive outlook, particularly at the front. The lack of a lift and level access would deter some guests, but en-suite facilities are available in several rooms and in others could apparently be reinstated with relatively little investment. There are a variety of other small and medium sized hotels, guest houses and other visitor accommodation in very close proximity, including several within the same terrace. Therefore, on the face of it, there are clear indications that the locality continues to attract overnight visitors seeking a seaside location and that a viable business model is achievable for visitor accommodation in a building of this nature.
15. I accept that the loss of one modest premises may individually have a limited effect on the visitor economy as a whole. However, the Council's approach is to prioritise retention of a concentration of such uses in specific, targeted locations. The erosion of those locations over time could have a significant cumulative effect, which the approach in Policy DM12 clearly sets out to avoid. Even if a flexible approach is taken, in light of the modest scale of the property, the evidence provided falls significantly short of the requirements in paragraph 5.37 of the DMP. As such, it has not been adequately demonstrated that the site is no longer viable or feasible for visitor accommodation.
16. Therefore, based on the evidence before me, I conclude that the change of use has a harmful effect on the availability of visitor accommodation. It is contrary to Policy DM12 of the DMP, for the reasons given above. It conflicts with Policies CP1 and KP1 in the Core Strategy which require, amongst other things, that development helps to maintain and enhance the role of the city, including its seafront, as a visitor destination. It is also contrary to the overarching requirement in Policy KP2 that all new development contributes to economic regeneration and the Council's strategic objectives.

Other Considerations

17. According to evidence from both parties, there is a shortfall in the supply of land for housing. While there was some improvement subsequent to determination of the application, the housing land supply figure of 3.48 years reported in the Council's statement of case amounts to a significant shortfall

against the five year requirement. No updated supply figure has been provided following publication of the revised Framework, but there is equally no indication that the position has improved. There is also a substantial shortfall in housing delivery, based on the 2022 and 2023 Housing Delivery Test results. In those circumstances, the approach set out in paragraph 11d of the Framework is applicable.

18. The appellant highlights that provision of family housing is supported by Policy DM7 of the DMD, and the Council has not provided any evidence to the contrary. On that basis, the dwelling is a good fit with local housing mix requirements. However, only a single dwelling is provided. Furthermore, should a future guest house use include self-contained accommodation for the owners, that may also count towards the supply of housing, depending how it is laid out and defined. As such, the benefit to the housing supply may be primarily a qualitative, rather than quantitative contribution.
19. On the basis that the development plan prioritises the retention of visitor accommodation in the Key Area related to the Seafront, the existing authorised use already makes efficient use of previously developed land in line with identified needs. While the location provides occupiers of the dwelling with good access to services and facilities in the urban area, that is equally advantageous for those staying overnight. On that basis, the alternative use of a previously developed site in this location does not amount to a net benefit in the particular circumstances of the case.
20. The Council did not raise any objection to the proposed balcony, and I concur that this would integrate satisfactorily with the design of the building and the character of the terrace as a whole. It is clear that the current occupiers have invested in the property, addressing previous deficiencies, improving energy efficiency and restoring good decorative order. At this point, however, there is no reason to think that the improvements which have already been made are likely to be reversed, or that the proposed balcony could not be incorporated into a scheme for use of the property as visitor accommodation. As such, any benefits to the appearance of the building are not reliant on its continued use as a dwelling.
21. While a letter of support raises concern that reversion to business use would increase pressure on restricted parking facilities, there are no grounds to think that the demand for parking would be any greater than it was in the relatively recent past when the guest house was operational. While I acknowledge that the same letter is supportive generally of the principle of residential use, and more particularly of the contribution which the occupiers make to the local area, there are also representations taking a contrary view, and supporting the Council's decision to refuse planning permission on grounds including the effect on the local economy.
22. There is no dispute that the dwelling provides a suitable internal environment and avoids harm to the living conditions of neighbouring occupiers. No highway safety, environmental health or flooding concerns have been raised by the relevant consultees. However, these are neutral considerations which do not overall weigh in favour of the proposal.

Planning Balance

23. Paragraph 232 of the Framework makes clear that the weight attached to any conflict with the development plan does not hinge on its age, but on the degree of consistency with the Framework. Section 6 of the Framework places significant weight on the need to support economic growth, taking into account local business needs. Paragraph 85 advocates an approach which allows the area to build on its strengths, counter any weaknesses and address the challenges of the future. Paragraph 86 says that planning policies should set out a clear economic vision and strategy having regard, amongst other things, to local policies for economic development.
24. Policy DM12 is supported by evidence that tourism and leisure make a significant contribution to the local economy, with the 2013 Southend-on-Sea Local Economic Assessment (LEA) highlighting that overnight visitors are of particular importance due to their typically higher level of expenditure. While the LEA also includes evidence of decline in the proportion of visitors who stay overnight, Policy DM12 is part of the Council's response to that evidence, by defining a strategy to protect the supply of visitor accommodation in specific, clearly defined locations.
25. Figures in the more recently published Destination Management Plan¹ (DMP) also indicate some limited further decline and confirm that overnight stays are a small proportion of the total number of visitor trips. However, the DMP includes specific objectives and tasks aimed at increasing overnight trips and accommodation occupancy rates. While the DMP was prepared prior to the Covid 19 pandemic and more recent cost of living issues, no specific evidence has been provided that the Council's wider strategy for sustaining and supporting the overnight visitor economy has changed or become less relevant in the intervening period.
26. That being the case, based on the evidence before me, Policy DM12 continues to respond to evidenced local business needs and economic priorities. It also sets out a clear strategy for safeguarding visitor accommodation in Key Areas of the city. That is consistent with the approach in Section 6 of the Framework to building a strong, competitive economy.
27. The proposal does not gain support from policies in the development plan supporting efficient use of previously developed land, since they are not limited to the use of land for housing. There is also no clear evidence that any support in the development plan for provision of family housing is at the expense of the application of other relevant policies, such as Policy DM12. Consequently, the proposal is contrary to the development plan when considered as a whole. Having concluded that Policy DM12 is consistent with the Framework, the harm arising from the inadequately justified loss of visitor accommodation carries significant weight.
28. For the reasons given above, the benefits of the development are very modest. Therefore, even in the context of the significant shortfall in housing supply and delivery, they carry no more than moderate weight.
29. For the above reasons, the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in

¹ Destination Southend 2020-2050: Southend Tourism Partnership and Southend-on-Sea Borough (sic) Council Destination Management Plan for the Borough of Southend-on-Sea

the Framework taken as a whole. Of the key policies listed in footnote 9 of the revised Framework, those relating to provision of affordable housing, avoiding isolated homes in the countryside and the sequential approach to town centre uses are not directly relevant. Key policies relating to sustainable transport, optimising the efficient use of land and securing well-designed places are relevant, but do not weigh in favour of the proposal, for the reasons given above. Consequently, when assessed against the approach set out in paragraph 11d, the proposal does not benefit from the presumption in favour of sustainable development.

Other Matters

30. The appeal site lies within a defined Zone of Influence for several Essex Coast Habitats Sites. These are recognised for their value as coastal habitats and support internationally important populations of breeding and non-breeding bird species. They have been identified by Natural England as being vulnerable to harm as a result of increased recreational disturbance associated with new residential development. In response, the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS) sets out an agreed strategic approach to mitigation of recreational pressure, requiring payment of a tariff for each new dwelling, to fund management and mitigation of recreational disturbance.
31. The extent to which the development contributes to recreational pressure is contested by the appellant, on grounds that use of the site by overnight visitors would also have generated recreational pressure on the relevant Habitats Sites. Nevertheless, I am informed that a financial contribution has been made by direct payment to the Council, in line with the RAMS, in an effort to address the second reason for refusal.
32. Had I been minded to allow the appeal, it would have been necessary to complete an Appropriate Assessment as required by the Conservation of Habitats and Species Regulations 2017, to determine whether the development results in a significant effect, either alone or in combination with other development, on Habitats Sites. Since I am dismissing the appeal for other reasons, it is not necessary to address the effect on Habitats Sites in any further detail. Any arrangements in relation to the direct payment which has already been made are a matter for the parties to resolve as appropriate.

Conclusion

33. The development is contrary to the development plan and no material considerations, including the provisions of the Framework, indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

Jane Smith

INSPECTOR