



Appeal Decision

Site visit made on 10 December 2024

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th February 2025

Appeal Ref: APP/D1590/W/24/3348683

13 Cobham Road, Westcliff on Sea, SS0 8EG

- 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 Green Eagle Estates Ltd against the decision of Southend-on-Sea City Council.
 - The application Ref is 23/00443/FUL.
 - The development proposed is change of use from hotel (Class C1) to 15-bedroom HMO (Sui Generis).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of the appeal. The Council and the appellant were given the opportunity to comment upon the revisions insofar as they relate to the appeal. I have taken any responses received into account in my reasoning.

Main Issue

3. The main issue is the effect of the appeal proposal on the supply of visitor accommodation.

Reasons

4. 13 Cobham Road is a substantial detached three storey Victorian villa. Currently vacant, it was previously used as a hotel. The appeal proposal seeks to change the use to a 15-bedroom House in Multiple Occupation (HMO).
5. Policy DM12 of the Southend-on-Sea Development Management Document 2015 (DMD) concerns visitor accommodation. It identifies 'Key Areas' where existing visitor accommodation will be retained and new visitor accommodation should be focused. One of the identified key areas is the Seafront, where there is good access and a clear and strong relationship with the Seafront. The appeal site falls within the Seafront area. Where alternative uses are proposed, Policy DM12 requires, amongst other things, that it can be demonstrated that the site is no longer viable or feasible for visitor accommodation.
6. The supporting text to the policy clarifies that applications will need to be accompanied by proof or marketing for sale, evidence of business performance and evidence of professional management. Evidence to support each of these

elements is required covering a continuous period of at least two years. Paragraph 5.39 of the text acknowledges flexibility in this policy application, clarifying that for smaller 'lifestyle' businesses, proof of marketing for sale with specialist and local agents at a realistic price may be sufficient on its own.

7. The statement from Dedman Gray Property Consultants confirms they marketed the appeal property between August 2022 and January 2023. It was available on various online portals and Dedman Gray's website. The agent confirms that all enquiries received for the building were in connection with HMO or short-term lettings. There were 10 registered enquiries, with 4 of those going on to view the building internally.
8. The marketing agent states that they did not receive any enquiries from interested parties wishing to continue operating the property as visitor accommodation. They comment that the city has more recently benefitted from newer purpose-built hotels and the demand for smaller hotels and guesthouses has reduced dramatically.
9. The appellant's feasibility report indicates marketing has been undertaken in the form of online marketing, referrals to investors and viewings of the property. The report indicates there was a lack of interest from prospective buyers, who all arrived at the conclusion that the venture would not be financially viable. They set out a number of contributing factors to the property's unsuitability for a hotel use, including its derelict condition, past market experiences, renovation costs, local demand and potential social implications. It is stated in the submissions that the cost to bring the building back to a basic level for hotel operations is prohibitively high and the market has shown a disinterest in such an establishment.
10. I noted on my site visit that the building is in extremely poor condition and will require extensive repair and refurbishment to enable it to accommodate any functioning use. The appellants estimate that the works to enable a very basic hotel use would be around £550,000. It is unclear from the evidence provided how this figure was arrived at, though it is said to encompass essential repairs including structural repairs, electrical and plumbing updates, decorative refurbishment and amenities.
11. The evidence before me indicates that the hotel closed more than two years ago and prior to its closure it was being operated as an unlicensed HMO. The appellant states that towards the latter period of its operation, as the hotel was being run as an HMO, they have not been able to obtain relevant business performance data or marketing and business plans for the hotel to demonstrate investment plans or attempts to attract business. I consider this approach to be reasonable given the site's history and the flexibility contained in the supporting text to Policy DM12.
12. Nevertheless, the marketing evidence provided by Dedman Gray covers well below the two-year period referred to in the supporting text to DM12. I note that the period of marketing by Dedman Gray stopped in January 2023, upon completion of the sale. I have little substantive evidence before me regarding any formal marketing or market conditions after January 2023. The evidence provided by the appellant within their feasibility report is largely anecdotal in terms of trends in supply and demand for visitor accommodation, that the former hotel business struggled and that it was not appealing to buyers. Although it may well be common knowledge locally that the site is vacant, and the appellant's point that despite this,

no potential hoteliers have come forward to express any interest, is anecdotal evidence to which I attach limited weight.

13. The appeal site is in an attractive location for visitor accommodation, being both near the seafront and within walking distance of the city centre and attractions. Interested parties have made extensive submissions in this regard. However, I note that the evidence presented by interested parties is also largely anecdotal, to which I attribute limited weight.
14. The appellant's own research shows a significant increase in the number of private rental rooms and houses available in the area since 2012, along with the presence new purpose-built hotels. Whilst this type of accommodation would cater for some needs and preferences, there is little compelling evidence before me that there is not a market for any form of visitor accommodation in older converted buildings, such as the appeal site, in a location that the development plan specifically identifies as a 'Key Area' for retaining visitor accommodation.
15. In conclusion therefore, the appeal proposal would result in the loss of visitor accommodation in an area where the Council's spatial strategy, as set out in the development plan, identifies as an area suitable for the provision and retention of visitor accommodation. The evidence provided covering the short period of marketing, along with the limited evidence regarding viability of a hotel operation at the appeal site leads me to conclude that the appeal scheme would conflict with DMD Policy DM12 and Policy KP1 of the Southend-on-Sea Core strategy 2007 (Core Strategy). Taken together and amongst other things, these policies seek to enhance the seafront as a successful leisure and tourist attraction and retain visitor accommodation within the Key Areas. For the reasons set out above, I consider the magnitude of this conflict is considerable.
16. The Council also references Policies KP2, CP4 and CP8 of the Core Strategy in their reason for refusal. Policies KP2 and CP4 are strategic in nature, setting out a range of principles to guide sustainable development and design; they are not directly determinative in relation to the issue in dispute. Policy CP8 relates to housing and is not directly relevant to the issue in dispute.

Other Matters

17. My attention has been drawn by the appellant to a planning permission for a change of use from a hotel to a 7 bedroom HMO by way of an example of a similar type of development approved by the Council¹. No additional details have been provided, but the Council state that the marketing evidence provided covered 12 months, and the HMO was specialist housing for young care leavers or those seeking Asylum. Based on the evidence before me I am satisfied that this example is not directly comparable to the appeal scheme.
18. The Council is satisfied with matters including the quality of the accommodation proposed, the effect on living conditions of surrounding residents, parking, access, highways, drainage, refuse and recycling. I do not have substantive evidence to contradict the conclusions of the Council in these matters, so I see no reason to disagree. Nevertheless, the absence of harm means these are neutral considerations in my determination of the appeal.

¹ Reference 22/00980/FUL

19. The appeal site falls within the Zone of Influence of several European designated sites scoped into the Essex Coast Recreational disturbance Avoidance Mitigation Strategy. Any new residential development has the potential to cause disturbance to European designated sites and must therefore provide appropriate mitigation. As I am dismissing the appeal for other reasons, I shall not pursue this matter further because it would not lead me to a different conclusion.

Planning Balance

20. The appeal proposal would result in the loss of visitor accommodation in an area where its retention is supported by the development plan. It has not been demonstrated that the site is no longer viable or feasible for visitor accommodation. I have judged the magnitude of the conflict with the development plan as considerable.
21. Set against the harm identified, the proposal would provide a form of lower-cost housing which would add to the housing stock within the city and would contribute to market choice within the private rented sector. It would allow the re-use of a vacant building and would be an efficient use of land in a sustainable location. There would be some socio-economic benefits arising from new residents using local services. Given the modest scale of the proposal, I attach moderate weight to these benefits.
22. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. Policies KP1 and DM12 are generally consistent with the Framework in terms of their support for tourism as part of the local economy; the Framework recognises the need to plan for social, recreational and cultural facilities and services. The conflict between the proposal and Policies DM12 and KP1 should therefore be given significant weight in this appeal.
23. The Council is unable to demonstrate a five-year supply of deliverable housing sites, confirming a supply of 2.9 years. Consequently, paragraph 11 d) of the Framework is applicable. Footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard for key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.
24. The benefits associated with the additional housing would be moderate even taking account of the Framework's objective of boosting significantly the supply of housing and the Council's housing land supply position.
25. The harm I have identified to the supply of visitor accommodation within an area where visitor accommodation is protected by the development plan would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, the appeal should be dismissed.

L Francis

INSPECTOR