



Appeal Decision

Site visit made on 15 April 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2025

Appeal Ref: APP/D1590/W/24/3342069

164 London Road, Southend on Sea SS1 1PH

- 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 Harnek Singh Bal against the decision of Southend-on-Sea Borough Council.
- The application Ref is 23/01565/FUL.
- The development proposed is a change of use from ground floor commercial shop to residential flat.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the host building and the surrounding area; and
 - whether the proposed development would provide satisfactory living conditions for the future occupiers of the proposed residential flat with regards to outlook, light and storage space.

Reasons

Character and Appearance

4. The appeal site is currently occupied by a mid-terrace building consisting of a retail unit on the ground floor and a residential unit on the first floor. The retail unit is currently unoccupied and the proposed development would convert this into a two bedroom residential flat. The building is located within a parade of commercial shops on London Road, some of which have been converted to residential properties. However, the appeal property sits amongst a group of units which still

appear to be used or previously used for commercial purposes, with traditional shop frontages.

5. The proposed conversion would replace the existing glazed shop frontage with a front door serving both the ground and first floor flats and a smaller, domestic ground floor window on the front elevation. Although the area has varied fenestration patterns and external treatments, the proposed ground floor window would not align with the window above. This would appear as an incongruous feature on the host building and would be a poorly designed addition to the streetscene. The loss of the shop frontage in this small row of commercial units and replacement with a domestic window, would also be out of keeping with the existing character of the immediate surrounding area.
6. Furthermore, on the submitted plans, the bin storage is located to the front of the property, on the pavement. Even with a bin enclosure, this would still be a relatively large addition to the front of the building with a markedly domestic appearance, at odds with the existing commercial surrounds. It would therefore appear contrary to the character of the immediate area.
7. It is noted that the retail unit within the appeal property is currently unoccupied and has been for some time, thereby appearing somewhat dilapidated and in need of updating. The proposed development would, in some regards, restore an active frontage to the property. However, I see no reason as to why this could not be achieved whilst providing a more suitable design solution which would suit the character of the area and contribute to the appearance of the overall townscape.
8. Therefore, for the reasons above, the proposed development would result in harm to the character and appearance of the host building and the surrounding area and would conflict with Policies KP2 and CP4 of the Southend on Sea Core Strategy 2007 (the CS) and Policies DM1 and DM3 of the Southend on Sea Development Management Document 2015 (the DMD). The relevant sections of these policies collectively seek to ensure that development proposals are well designed, contribute to the creation of a high quality urban environment and respect and respond positively to the character and scale of the existing neighbourhood including the site, its local context and surroundings.
9. Although included within the reason for refusal, Policy KP1 of the CS is not relevant to this main issue as it relates to an overarching spatial strategy.

Living Conditions

10. The proposed bedrooms to the front and rear of the property would be served by windows providing sufficient light and outlook to the occupiers when using these rooms. However, the proposed living, kitchen and dining area would be located in the middle of the building which is not served by any external windows. The appellant has therefore proposed a relatively large lightwell to provide light to this space. Whilst this would provide some daylight to this living space, whether this would be sufficient is unknown as no daylight assessment has been provided. Furthermore, it would not provide an outlook to the future occupiers of the flat when using this main living space, resulting in a harmful sense of enclosure.
11. It is noted that lightwells are common solutions in urban conversions. However, they are rarely used as the sole source of light for the main living space, as proposed in this instance, and are often supplemented by windows providing the

occupiers some level of outlook. Therefore, such a feature would not be an acceptable design solution for the conversion proposed.

12. The proposal could provide bicycle storage within the rear garden or lightwell space, secured by condition. However, due to the nature of the property, it seems unlikely that external bin storage could be accommodated successfully. For the reasons addressed previously, bin storage on the pavement to the front would result in harm to the character and appearance of the area and bin storage in the rear garden would require access through the property, including a bedroom, for collection. This would not be a practical solution for the future occupiers and would therefore contribute to the poor standard of accommodation this proposal would provide.
13. The appellant and Council agree that the proposed development would meet the nationally described space standard and therefore I do not consider that the proposed residential unit would result in a cramped form of development. Whilst no storage is currently proposed, I see no reason as to why this could not be provided within the footprint of the building which, if necessary, could be secured by condition. There also appears to be storage provided in the rear garden.
14. Nevertheless, the proposed development would not provide satisfactory living conditions for the future occupiers of the proposed ground floor flat with regard to outlook, light and bin storage. Therefore, it would not comply with Policy CP4 of the CS and Policies DM1, DM3 and DM8 of the DMD of which the relevant sections collectively seek to ensure that developments are well designed and high quality, provide an internal and external layout that takes account of all potential users and provides convenient, usable and effective room layouts.
15. Although included within the reason for refusal, Policy KP2 of the CS is not relevant to this main issue. Furthermore, in their report the Council include that Policy DM3 of the DMD states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents. However, this part of the policy relates to development on land that constitutes backland and infill development and is therefore not relevant to this proposal.

Planning Balance

16. Whilst not raised by the appellant, the Council have stated that there is a deficit in the housing land supply in the city and that they are underperforming in the housing delivery test, although specific figures are not provided. Therefore, due to the provisions of footnote 8, paragraph 11(d)(ii) of the Framework should be applied.
17. The development would add to the overall housing land supply and make a small contribution to the Government's objective of significantly boosting the supply of homes, with one additional flat in a sustainable location and making efficient use of an unused commercial unit on previously developed land. The appellant has also indicated that the proposal will bring a vacant property back into use, improve the energy efficiency of the building and will provide economic benefits such as additional council tax and greater footfall to local services, contributing to the area's regeneration. They also consider the empty shop to be dangerous and that the proposal would provide safety and security enhancements.

18. However, the benefits derived from a single unit would be limited and therefore this carries limited weight. Therefore, even though there is a shortfall in the housing land supply, given the harm I have identified, the adverse impact of granting planning permission would significantly and demonstrably outweigh the limited benefits of one residential unit when considered against the policies of the Framework taken as a whole, even when having particular regard to key policies for directing development to sustainable location and making effective use of the land. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.
19. The appellant considers that a number of successful residential conversions have taken place in the vicinity of the appeal site on London Road with similar appearances to the appeal proposal and comparable design solutions. Some photos of these have been provided and I saw on my site visit that a number of commercial units along this parade of shops had been converted into residential properties with varying degrees of success. However, whilst the area may be shifting from a largely commercial to a more residential use, the units directly adjacent to the appeal site still appear to be commercial in nature, with traditional shop frontages, although some appear to be unoccupied at this time.
20. Although there are successful examples of residential conversions in close proximity to the appeal site, those examples which are similar in appearance to the appeal proposal do not contribute positively to the streetscene and represent poor examples of residential conversions in relation to the character and appearance of the area. Furthermore, the internal layout of these properties, and their standard of living accommodation, is unknown. Therefore, they do not set a precedent for the appeal proposal before me or outweigh the harm I have identified.

Other Matters

21. The appellant has highlighted communication issues with the Council which they believe include a delay in receiving their decision, contradictory advice and the introduction of new reasons for refusal after pre-application advice. The appellant's frustrations are noted, however these matters do not alter my overall findings in this appeal or the resultant outcome.
22. The Council have indicated that the appeal site lies within the Zone of Influence for one or more European designated sites, although these specific sites have not been identified. Given that the proposal is for additional housing, there is a reasonable likelihood that these European Sites would be accessed for recreational purposes by future occupiers of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. The appellant states that they are prepared to make a financial contribution under the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS) to provide mitigation. However, a legal agreement to secure such a contribution has not been provided.
23. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in

my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

24. Therefore, for the reasons given above and having had regard to all other matters raised, the development would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR