
Appeal Decision

Site visit made on 2 June 2025

by **G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 17th June 2025

Appeal Ref: APP/D1590/W/25/3363552

51A Broadway, Leigh-on-Sea, Southend-on-Sea SS9 1PA

- 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 I Templeman against the decision of Southend-on-Sea Borough Council.
 - The application Ref is 24/01315/FUL.
 - The development proposed is change of use of first floor office (Class E (A)) to self-contained residential unit (Class C3), erect first floor rear extension, install cycle storage to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of development above from the planning appeal form rather than the planning application form as the appellant has confirmed that the description of development provided on the application form is no longer correct. This description also reflects that provided on the Council's decision notice.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of the neighbouring property to the rear, 1A East Street, with regard to outlook.

Reasons

4. The appeal property comprises a mid-terrace two storey building which has a retail unit at ground floor level. To the rear is an existing two storey wing which replicates that of the attached property 53 Broadway. The rear of the property faces onto an alleyway which serves as a pedestrian access to the rear of the properties facing onto this part of Broadway and to a flat accessed from the side elevation of 1A East Street. A close boarded fence runs along the rear boundary of the appeal site.
5. The proposed extension would result in two storey built form being extended further south. The appellant asserts that the new rear elevation would be situated 4 metres from the side elevation of No 1A. There are a number of windows and one door that are located on the side elevation of No 1A, that would have outlooks towards the proposed extension. From the evidence before me, there are three windows at ground floor level serving bedrooms with two of those windows serving the same bedroom and three windows, one at ground floor and two at first floor level serving two separate living rooms. I witnessed the position and form of these

windows during my site visit. The appellant does not dispute the Council's analysis of the windows and which rooms they serve, provided in its Statement of Case.

6. Whilst views from the living room windows and the bedroom located further east in the side elevation would have an altered outlook as a result of the proposed development, given they would be off set from the proposed extension and each of those rooms are served by more than one window, I do not find that the outlooks from those rooms would be harmed to an unacceptable degree.
7. However, the outlook from the bedroom window that would be in direct alignment with the proposed extension would be harmed to an unacceptable degree. The proposed rear wall, due to the height and the proximity to the rear boundary, would appear overbearing and oppressive, when viewed from this window. It would create an increased sense of enclosure that would be harmful to the living conditions of the occupier of that bedroom. The harmful impact would be significant, given the bedroom is served by one relatively small window.
8. The appellant asserts that there would be no issues of direct overlooking and that there would be no harmful impacts in terms of overshadowing or the amount of sunlight or daylight reaching the windows of No 1A. Even if I were to agree, these considerations would not outweigh the harm I have identified above.
9. The appellant has drawn to my attention other various rear extensions along the terrace, and I did witness the varying scales and design of built development to the rear of Broadway during my site visit. Nevertheless, I was not able to witness nor have I any evidence before me that there is an existing relationship, such as the one that would be created as a result of the proposal, provided for in any of these other examples. In any case, even if there are other examples of properties where the living conditions are substandard, I do not have the planning history of any examples before me, nor would it lead me to support a scheme which is deficient in this respect.
10. The proposal would result in significant harm to the living conditions of the occupiers of the neighbouring property to the rear, No 1A, with regard to outlook. It would be contrary to Policies KP2 and CP4 of the southend on sea core strategy adopted December 2007 (CS) and Policies DM1 and DM3 of the Development Management Document July 2015 (DMD). These policies seek, amongst other things, that development proposals are of good quality design that maintain and enhance amenities including protecting those of immediate neighbours and that they secure good relationships with existing development.

Other Considerations

11. The appeal proposal would provide an additional unit of residential accommodation where services, facilities and public transport would be easily accessible. The appellant asserts that the use of the appeal property would be optimised, and that the proposal would represent an effective and efficient development, involving the reuse and extension of an existing building. There would also be economic benefits during the construction works and after with future occupants supporting local services and facilities. However, these benefits are tempered by the scale of the proposal, but nevertheless carry modest weight in favour of the development.

12. It is stated that the traditional and simple design of the extension, the proportions and the materials used would complement the area and that the standard of accommodation provided would be acceptable. A lack of harm in these respects would be a neutral consideration that would weigh neither for nor against the proposal.
13. The appeal site is located within the Leigh Cliff Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the CA. I find that the significance of the CA is due to the late Victorian architectural quality of the built form albeit Broadway is more diverse than the residential side streets. The appeal property forms part of a period terrace located on Broadway, and makes a positive contribution to the significance of the CA. However, to the rear of the terrace there is significant variety in built form alterations with flat roofs and rear extensions present.
14. The appeal proposal would provide a continuation of the existing rear wing of the appeal property, following the same simple and traditional proportions and design. It is also proposed to match the existing materials. Given the context in which it would be viewed and that it would be less prominent in public views being located to the rear, I find that the proposal would result in a neutral effect on the significance of the CA.
15. With regard to design, scale and use, the appellant has referred to an appeal decision at 43A Broadway whereby a scheme for a first floor rear extension and dormer was allowed on appeal. However, limited information is provided in order for me to make a comparison to the appeal proposal before me now.

Other Matter

16. The appeal site is located within the Zone of Influence of a number of European sites which are protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). In this regard, the Council has confirmed that a payment has been made in accordance with the requirements set out in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) May 2020. However, Regulation 63(1) of the Regulations indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not necessary for me to consider this matter further.

Planning Balance

17. I have found that the appeal proposal would result in harm to the living conditions of the occupiers of the neighbouring property to the rear, No 1A, with regard to outlook. I have judged the magnitude of this harm to be significant. Paragraph 232 of the National Planning Policy Framework (the Framework) states that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework states that developments should ensure a high standard of amenity for existing users. Therefore, the conflict between the appeal proposal and the CS and DMD policies should be given significant weight in this appeal. Given the conflict with the policies I have identified, the appeal proposal would be contrary to the development plan as a whole.

18. The Council has identified that it is not able to demonstrate a sufficient supply of deliverable housing sites and that the Housing Delivery Test is not currently being met. In such instances paragraph 11 d) ii. of the Framework falls to be considered. This indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to securing well designed places, amongst other things.
19. As described above, even if there is a significant shortfall in housing land supply and the delivery of housing, the benefits associated with one additional flat would be modest. I come to this view considering the Framework objective to boost significantly the supply of housing and acknowledging the support provided for the delivery of small sites.
20. Paragraph 135 f) of the Framework also states that planning decisions should ensure that developments create places with a high standard of amenity for existing users. I have found that the proposal would result in unacceptable harm to the amenities of a neighbouring occupier with regard to outlook. The proposal would therefore conflict with the Framework in this respect.
21. Taking all matters into consideration, and notwithstanding the weight I have attributed to the scheme's benefits, I conclude that the adverse impact to amenity would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.

Conclusion

22. The proposal conflicts with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

G Dring

INSPECTOR