



Appeal Decision

Site visit made on 6 June 2025

by **N Perrins MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2025

Appeal Ref: APP/D1590/W/24/3356343

146 York Road, Southend-on-Sea SS1 2EA

- 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 J Lieberman against the decision of Southend-on-Sea City Council.
 - The application Ref is 24/00452/FUL.
 - The proposed development is to convert existing dwellinghouse into two self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2024. The updated Framework does not raise any new matters that are determinative to the outcome of this appeal.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions for future occupants of the building with particular regard to internal living space.

Reasons

4. The appeal site is a semi-detached dwelling. It forms part of a street of similar appearing dwellings, many of which have been converted from houses to flats.
5. The proposed development would convert the existing dwellinghouse into two self-contained flats: a two-bedroom flat with access to a non-habitable basement at ground floor, and a four-bedroom flat on the upper floors with a rear dormer window. The properties would be accessed from the existing front entrance with alterations proposed to the existing ground floor internal layout to provide separate access to each proposed flat. As observed on my site inspection, works at the site have started including the construction of the rear dormer.
6. Policy DM8 of the Development Management Document 2015 (DMD) sets out space standards for new residential development to adhere to. The standards contained in Policy DM8 are based on the Government's Technical Housing Standards – Nationally Described Space Standards (NDSS)¹.

¹ Published by the Government in 2015

7. The gross internal floor area of the proposed ground floor flat would be around 66.85 square metres (sqm) and the upper floor flat around 109.4 sqm. The submitted plans show the number of intended occupants for each bedroom. Three of the bedrooms are shown on the plans as being occupied by 1 person albeit would be large enough in terms of their floorspace to meet the minimum Policy DM8 standard required for a double bedroom, which is 11.5 square metres (sqm). As such, all the proposed bedrooms have a proposed floor area in excess of 11.5 sqm and would be large enough to each accommodate 2 persons when applied against the Council's standards.
8. I acknowledge the appellant's contention that it should not be assumed the bedrooms would be occupied by more than the stated number of residents. However, there are no suggested provisions before me as to how occupancy would be controlled and limited in perpetuity to what is shown on the plans. Any planning condition that sought to do this would not be enforceable and would not meet the requirements as set out in Paragraph 57 of the Framework.
9. The proposed development would, therefore, be capable without restrictions to accommodate up to 4 persons for the ground floor flat, and up to 8 persons for the upper floor flat. Policy DM8 states that a minimum floorspace of 70 sqm and 124 sqm is required for this level of occupancy for the ground floor and upper floor flat respectively. As both flats have floor areas below these minimum requirements, the proposal does not accord with Policy DM8 of the DMD and as such would not provide adequate living space for future occupants.
10. The harm to living conditions would be particularly notable for the upper floor flat with it being significantly below the Policy DM8 standard as well as not having a separate living room space for residents to use; based on the plans before me people would all be living within their bedrooms with only the small kitchen providing an opportunity for occupants to come together as a single dwelling unit. This is not an acceptable living arrangement for a 4-bedroom flat.
11. I acknowledge attention has been drawn to a scheme approved by the Council at 154 York Road Ref 20/02004/PA3COU. However, the Council has provided evidence that demonstrates that the bedrooms at 154 York Road met the floorspace requirements of Policy DM8. The reference to 154 York Road, therefore, is not directly comparable to the appeal proposal and does not provide justification for the harm to living conditions identified in this case.
12. To conclude, the appeal proposal would result in harm to living standards for future occupants. Accordingly, the appeal proposal is contrary to Policies KP2 and CP4 of the Core Strategy 2007 (CS) and Policies DM1, DM3 and DM8 of the DMD, which require development to contribute to a high-quality environment and not adversely impact on living conditions of intended occupants. The proposal is also contrary to Paragraph 135 of the Framework, which requires development to have a high standard of amenity for future users.

Other matters

13. Whilst I have found there would be harm to the internal living conditions of future occupants, I agree with the Council's conclusions that the proposal, including rear dormer, would be acceptable in all other respects subject to the imposition of conditions to secure insulation, sustainability, cycle parking and waste measures as well as details for materials and construction hours.

14. I am aware that the site falls within the Zone of Influence for one of more European Sites within scope of the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). A competent authority I am required to undertake a Habitats Regulations Assessment as to the proposed development's impact on European Sites, in combination with other developments. The Council's RAMS Supplementary Planning Document (SPD) confirms that mitigation for the affected European Sites is dealt with by payment of a specified tariff for each proposed dwelling. I am satisfied from the information before me that the appellant has paid the requisite contribution for each proposed dwelling in accordance with the SPD and the proposal is acceptable in terms of its impact on European Sites.

Planning Balance

15. The Council has confirmed they are unable to demonstrate a five-year housing land supply at present. As such, the Framework's presumption in favour of sustainable development set out in Paragraph 11 (d) (ii) is engaged.
16. I have found that the development would not provide suitable living conditions for future occupants of the flats by reason of the floorspace not meeting the required standards. This is contrary to Policies KP2 and CP4 of the CS and Policies DM1 DM3 and DM8 of the DMD. The Framework supports the provision of development that provides a high standard of amenity for future users. As the development plan policies are consistent with the relevant aims of the Framework, I attach substantial weight to the conflict with them.
17. In view of the Council's lack of a five-year housing supply, there would be benefits from the net addition of one dwelling and making best use of land. This would be consistent with the Government's objective of significantly boosting the supply of housing. However, given the scale of the scheme, the benefits from one additional dwelling would be relatively small. That said, the benefits of boosting housing supply would be sufficient in isolation to outweigh the harm derived from the ground floor flat as it is only marginally below the Council's standard as set out in Policy DM8. However, the upper floor flat is significantly below the Policy DM8 standard in terms of its size of bedrooms. The lack of separate living room space would also accentuate the harm to living conditions. Therefore, the harm that would arise to future occupants of the proposed development as a whole would be significant.
18. Therefore, even with the identified housing supply shortfall that exists in the city, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework as a whole, having regard for ensuring a high standard of amenity for future users. Accordingly, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.

Conclusion

19. For the reasons given, and having regard to all matters raised, the development would conflict with the development plan, and I conclude that the appeal should be dismissed.

N Perrins

INSPECTOR