



Appeal Decision

Site visit made on 11 September 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2025

Appeal Ref: APP/D1590/W/25/3367952

71-73 Southchurch Road, Southend-on-Sea, Essex SS1 2NL

- 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 Sivasaravanam (B U S Premier Ltd) against the decision of Southend-on-Sea City Council.
 - The application Ref is 25/00255/FUL.
 - The development proposed is part conversion of rear ground floor to form new self-contained apartment, and extension to first floor rear apartment to form new 3-Bedroom HMO.
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Decision

1. The appeal is allowed and planning permission is granted for part conversion of rear ground floor to form new self-contained apartment, and extension to first floor rear apartment to form new 3-Bedroom HMO at 71-73 Southchurch Road, Southend-on-Sea, SS1 2NL in accordance with the terms of the application, Ref 25/00255/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - whether appropriate waste management arrangements would be made for the proposed first floor house in multiple occupation (HMO) unit; and
 - whether the effects of the appeal scheme on designated habitats sites would be appropriately mitigated.

Reasons

Waste Management

3. Because there would be no direct access from the first floor accommodation to the rear of the appeal site, in order to dispose of domestic waste occupants of the proposed first floor HMO unit would have to exit the property on Southchurch Road, head west to Chichester Road, then north to the junction with Essex Street and back down to the rear of the property where bins would be located. The Council has said that this would be far in excess of the maximum 30m carry distance as stated within the Council's Waste Storage, Collection and Management Guide for New Developments (2019) (WSCMG) and that the appeal scheme is tantamount to over-development of the site.

4. Although the appellant has noted that the occupiers of existing accommodation on the appeal site must currently walk via Southchurch Road to the rear of the property to dispose of waste, given the length of this route I do not consider that it represents a convenient solution for the disposal of waste and, therefore, the appeal scheme does not accord with Policy KP2 of the Council's Core Strategy (2007) and the WSCMG insofar as they relate to waste collection arrangements.
5. However, I do not consider that the proposed bin arrangements are a symptom of the over-development of the site – they are a consequence of the layout of the site. Furthermore, the reasons for refusal do not raise any other issues that might indicate that the appeal scheme would represent over-development.
6. The Council has also said that coupled with the absence of ventilation, the use of an internal cupboard to store refuse within the HMO unit has potential to generate negative odours and thus would harm living conditions within the HMO unit. However, it is not uncommon for domestic waste to be kept in an internal receptacle, which may be within a cupboard, pending its disposal in an outdoor bin. If properly managed by the occupiers, such an arrangement would not harm their living conditions.
7. Therefore, I do not consider that the appeal scheme conflicts with Policy CP4 of the Core Strategy (2007) or Policies DM1 and DM3 of Development Management Document (2015) which say that development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment and represent an efficient use of land, or with Policy DM8 of Development Management Document (2015) which relates to residential standards, including in respect of internal bin provision.

Habitats

8. The appeal site falls within the Zone of Influence (Zol) for one or more designated European sites scoped into the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). The Conservation of Habitat and Species Regulations 2017 (the Habitats Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of this European site. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.
9. The development would result in an additional dwelling with a consequent increase in the number of local residents living within the Zol for this European site. This would be likely to result in additional recreational activity in this area. Therefore, the proposed development is likely to have a significant effect on this European site. As the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the European site identified.
10. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as that identified above. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the site. The Essex Coast RAMS provides strategic mitigation measures to address this impact, with financial contributions at a specified tariff per dwelling collected from new

development to fund this mitigation. Such a payment can be made directly to the Council before an application is determined or by way of a planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended). Alternatively, there is an option for an applicant to undertake their own appropriate assessment and to propose bespoke mitigation.

11. I have been provided with evidence to demonstrate that a payment for the relevant amount has already been made to the Council by the appellant. Therefore, based on the evidence before me, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contribution towards the mitigation schemes would count as mitigation towards maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the European site. The development would therefore comply with the Habitats Regulations.

Conditions

12. I have reviewed the conditions proposed by the Council in light of the tests in the National Planning Policy Framework (the Framework) and advice in the Planning Practice Guidance. I also note that the appellant has not made any comments in relation to those conditions.
13. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. Similarly, in the interests of certainty, I agree that the condition proposed by the Council, which restricts the use of the appeal scheme to a Class C4 HMO, is necessary.
14. Further conditions requiring samples of the materials and details of hard and soft landscaping to be approved are also necessary, in the interests of the character and appearance of the area, as are details of cycle and waste storage to ensure that these are appropriately accommodated in the appeal scheme.
15. In the interests of the living conditions of the occupiers of dwellings near the appeal site, a condition which restricts the hours of demolition and construction works is necessary, as is a condition to ensure that a side window has obscured glass and restricted opening.
16. Given the location of the appeal site close to commercial premises, it is necessary to ensure that noise does not harm the living conditions of future occupiers of the development.
17. Finally, to ensure the efficient use of resources, conditions relating to energy and water efficiency measures are necessary.

Planning Balance and Conclusion

18. The Council does not have a five-year supply of housing land and, according to the most recent housing delivery test results, housing delivery has been substantially below (less than 75%) the housing requirement over the previous three years. Therefore, and given that habitats-related considerations have been

satisfactorily addressed, paragraph 11 d) of the National Planning Policy Framework (the Framework) is engaged.

19. Whilst the waste collection arrangements are a matter to which I attach negative weight, that weight does not significantly and demonstrably outweigh the benefit of the additional HMO accommodation when assessed against the policies of the Framework taken as a whole.
20. For the reasons given above the appeal should be allowed.

P Burley

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 200 Rev 05; and 201 Rev 03.
- 3) Before the development hereby approved is occupied the materials used on the external surfaces of the development must match those used on the external surfaces of the existing property. This applies unless differences are shown on the drawings hereby approved or are required by other conditions on this permission.
- 4) Any hard and soft landscape works to be carried out at the site shall only be provided in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development and the approved hard and soft landscaping scheme shall be maintained for the lifetime of the development.
- 5) Prior to the first occupation of the residential units hereby approved, details (including elevations) of secure, covered cycle and waste storage for occupiers of the development (as shown to the rear of the Essex Street elevation) shall be submitted to and approved in writing by the Local Planning Authority. The approved secure and covered cycle and waste storage shall be provided and made available for use by the occupants of the flats and HMO hereby approved prior to their first occupation and shall be retained as such for the lifetime of the development.
- 6) Prior to first use of the dwellings hereby approved, a Noise Impact Assessment must be conducted by a competent person to assess the potential impacts of existing commercial uses on the living conditions of future occupiers of the development. The assessment must be made using the appropriate standards and methodology for the noise sources and best practice. A report on that noise impact assessment, which must include any mitigation measures needed for the proposal to meet the required noise standards, as specified below, must be submitted to the Local Planning Authority for approval in writing before the dwellings are first occupied.

The mitigation measures recommended in the submitted report shall ensure that the internal ambient noise levels of the proposed dwellings shall not exceed the guideline values in British Standards BS8233:2014 Table 4 as follows:

07:00 to 23:00

- Resting - Living room 35 dB LAeq,16hour
- Dining - Dining room/area 40 dB LAeq,16hour
- Sleeping/Daytime Resting - Bedroom 35 dB LAeq,16hour

23:00 to 07:00

- Sleeping/Night-time Bedroom 35 dB LAeq,8hour

The development must be implemented in full accordance with the mitigation and other details submitted in the report approved under this condition before the dwellings are first occupied and thereafter be maintained as such in perpetuity.

The applicant must have regard to thermal comfort and noise mitigation in accordance with Acoustic Ventilation and Overheating - Residential Design Guide by IOA and ANC when proposing any scheme. Where alternative means of ventilation and air cooling and heating are to be used the submitted report shall include full details of what they will comprise and demonstrate that:

- The alternative means of ventilation and cooling will not compromise any noise protection measures;
- The alternative means of ventilation and cooling will not present an adverse noise or odour impact on occupants; and
- The alternative means of ventilation and cooling will enable optimum living conditions in all weather and with reference to climate change predictions

The means of ventilation must be in accordance with documents CIBSE Guide A:2015-Environmental Design, CIBSE TM52:2013-The limits of thermal comfort: avoiding overheating in European buildings and CIBSE TM59:2017-Design methodology for the assessment of overheating risk in homes. The alternative means of ventilation shall be implemented in full accordance with the details approved under this condition before the dwellings are first occupied and be maintained as such thereafter in perpetuity.

- 7) The proposed en-suite side window to the first floor western flank elevation hereby approved shall be permanently obscure glazed (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy scale) and fixed shut, to a height not less than 1.7m above finished internal floor level. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4 on the Pilkington scale.
- 8) Demolition and construction works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Bank and other Public Holidays.
- 9) Prior to the first use of the building for the purposes hereby approved details of energy efficiency and other sustainability measures to be included in the development, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to and agreed in writing by the Local Planning Authority under the terms of this condition and implemented on site in accordance with the agreed details. The energy efficiency and other sustainability measures shall be maintained for the lifetime of the development.

- 10) Prior to the first use of the building for the purposes hereby approved, the development hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting. The water efficient design measures shall be implemented for the lifetime of the development.
- 11) The first-floor HMO unit hereby approved shall only be used for purposes falling within Use Class C4 as defined under the Town and Country Planning (Use Classes) Order 1987 (as amended) on the date this application was submitted. The development shall not be used for any other purpose, including any purpose otherwise permitted under the Town and Country Planning (Use Classes) Order 1987 (as amended) nor any change of use permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or in any provision equivalent to those Orders in any statutory instrument revoking and re-enacting those Orders, with or without modification.

End of Conditions