



Appeal Decision

Site visit made on 26 November 2025

by Ms Beloe MSc DIC BSc (Hons) CSci CEnv C.WEM MCIWEM

an Inspector appointed by the Secretary of State

Decision date: 08 December 2025

Appeal Ref: APP/D1590/W/25/3373130

52 Honiton Road, Southend-on-Sea SS1 2RY

- 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 M Stanton of Oliver Assets Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref is 25/00593/FUL.
 - The development proposed is to change the use of a dwellinghouse (C3) to an 8-bed Sui generis HMO, erection of a flat roof rear dormer, insertion of two front roof lights, changes to the fenestration, removal of chimney and the provision of cycle and refuse storage on site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted minor changes to the description of the proposed development to which the Council responded that no agreement had been made. On that basis, I have maintained the description as that in the original application.
3. The appellant provided an internal daylight assessment with the appeal in response to the Council's reason for refusal. The Council has had the opportunity to comment on this document during the appeal proceedings and therefore I have taken it into account in reaching my decision.

Main Issues

4. The main issues are the effect of the proposed development on the living conditions of future occupiers with respect to:
 - the size of the communal living space and access to bathroom facilities; and
 - daylight and outlook.

Reasons

5. The property is a two-storey semi-detached dwelling, with garden, rear access and driveway, located on the east side of Honiton Road in Southend-on-Sea. The Council issued a certificate of lawful development (25/00269/CLP) in April 2025 for the change of use of the property from a dwellinghouse (Class C3) to a 6 bed HMO (Class C4).

Living conditions of future occupiers with respect to the size of the communal living space and access to bathroom facilities

6. The Council's and appellant's statements of case both provide reference to the Essex Approved Code of Practice (ECP) with respect to Houses in Multiple Occupancy (HMOs). Both parties agree that this is not a planning policy document. However, as the most relevant guidance for HMO standards in Essex, I give this document substantial weight.
7. Both parties cite Table 1 from the ECP which provides minimum room size requirements for shared facilities in HMOs, in their statements of case.
8. The communal living space of the proposed development is in the form of a kitchen/ diner, with a TV area with sofa at the far end, as indicated by the proposed plans. No other shared internal facilities are proposed.
9. The ECP requires a HMO for 8 occupants, with shared kitchen/ dining/ living facilities, to have a shared kitchen area of at least 14 square meters and a shared living/ dining room of 14 square meters. I have not been supplied with the proposed area of the kitchen separately to the proposed area of the living/ dining room. I am therefore unable to state whether or not the kitchen and dining areas meet these area requirements separately. However, when combined, this gives a total requirement of 28 meters squared. The appellant's plans indicate the combined shared space is 24.2 meters squared. This is 3.8 meters squared less than the space required by the ECP for a shared living/ kitchen/ dining area. Therefore, it follows, that either the kitchen area or the dining area is below the guidance of 14 square meters.
10. The appellant states in its comments to the Council's appeal statement (LPA Appeal Statement (Rev A)), that whilst the provision of a TV and sofa provided the most flexible use of the space, these could be replaced by an extended eating area further along the wall on both sides, and therefore would be regarded as a kitchen/ diner with no shared living room. If the requirements from the ECP were applied for a HMO with shared kitchen facilities with no shared living room, there would be a requirement for 14 square meters of kitchen area and 10 square meters of dining area. However, I have not been provided with the proposed areas of the kitchen and dining areas individually. I am therefore unable to state whether the kitchen and dining areas meet these individual requirements. When combined, there is a total requirement of 24 meters squared, which the proposed development would meet, according to the applicant's proposed plans indicating 24.2 meters squared of kitchen/ dining area.
11. There is no evidence before me to indicate these area requirements for a kitchen of 14 meters squared and dining room of 10 meters squared, which are presented in separate rows in Table 1 of the ECP, are intended to be added together. In fact, the email correspondence with the Council provided as part of the appellant's final comments, suggests that a provision of 10 square meters of dining space is required and I do not have evidence before me that this quanta of dining space is proposed.
12. Additionally, I note that there is a footnote to Table 1 of the ECP that requires HMOs without a shared living room, to provide additional shared dining space close to a shared kitchen that is more than one floor distant from any letting room it serves. In this particular situation, this would apply to the two bedrooms in the attic space. The footnote does not state how much more additional shared dining space is recommended under these circumstances. For this appeal, I consider it should

be materially more. I note the combined kitchen/ dining shared space proposed is 24.2 square meters which is 0.2 square meters greater than the minimum recommendations of the ECP when the spaces are combined. I do not consider the additional area of 0.2 square meters to be materially more space, sufficient to adequately satisfy the footnote.

13. Whilst I have given the ECP significant weight, I do note it is a guidance document only and not policy. I also appreciate that the proposed plans are indicative in regard to the layout of the dining area. However, looking at the evidence before me as a whole, I cannot confidently conclude that the proposed development would provide its 8 occupants with acceptable living conditions with respect to the communal living space. I am not convinced an area allocated for dining in the kitchen/ diner area proposed, would provide adequate floor space or that the shape and layout would function well as a pleasant kitchen/ dining space for 8 occupants.
14. All but one of the bedrooms would have en-suite bathroom facilities. Bedroom 5 at the first floor would be reliant on a shower room along the corridor on the same level. Whilst this is less desirable than an en-suite facility, I do not consider the location of the shower room so inconvenient for the occupants of bedroom 5 that it would amount to harm to their living conditions. However, this does not mitigate the other harmful design elements of the scheme that I have identified above.
15. The proposed development would therefore be contrary to Policy DM1, Policy DM3 and Policy DM8 of the Council's Development Management Document (DMD) (2015). Together these policies require all developments to protect the amenity of the site and have regard to living conditions and amenity of the intended occupants. The proposed development would also be contrary to Policy KP2 and Policy CP4 of the Core Strategy (2007), which together seek for development proposals to create a high quality and sustainable urban environment.
16. In addition, the proposed development would be contrary to the National Planning Policy Framework (the Framework) (2024), particularly paragraph 124 which states planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It would also be contrary to paragraph 135(f) of the Framework, which states planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.

Living conditions for future users with respect to daylight and outlook

17. Bedroom 2 is proposed to be located on the ground floor with an en-suite. The proposed plans show a door facing out towards the rear of the property. During my site visit, I viewed a glazed fitting in this space, which allowed in what I consider to be a reasonable level of light. The internal daylight assessment provided by the appellant, states bedroom 2 would receive adequate natural light using the Target Daylight Factor (DF_T) test as prescribed by the Building Research Establishment (BRE) guidance and BS EN 17037:2018. However, I must assess the appeal from the information submitted to me, and there is no indication on the plans that once the conversion has taken place, that the door in this location would contain a glazed fitting. To ensure adequate clear glazing and ventilation is provided and retained, if the appeal were to be allowed, these details would need to be secured via a condition.

18. The outlook from bedroom 2 would be towards the rear garden of the property towards a backyard and outbuilding. Assuming the presence of clear glazing, I find that the outlook would be acceptable to the living conditions of the proposed occupiers.
19. Bedroom 4 is proposed to be located on the first floor directly above bedroom 2 with an en-suite. The plans show a rear facing window. During my site visit I viewed a window fitting in this space, which allowed in what I consider to be a reasonable level of light. The internal daylight assessment provided by the appellant, states bedroom 4 would receive adequate natural light using the DF_T test as prescribed by the BRE guidance and BS EN 17037:2018. I therefore conclude this bedroom would receive sufficient levels of natural light for future occupiers to spend long periods of time within.
20. The outlook from bedroom 4 would be towards the rear garden of the property towards a backyard and outbuilding. I find that the outlook would be acceptable to the living conditions of the proposed occupiers.
21. Bedroom 5 is proposed to be located on the first floor with an en-suite. The proposed plans show windows facing towards the neighbouring property. During my site visit I viewed a window fitting in this space, which allowed in what I consider to be a reasonable level of light. The internal daylight assessment provided by the appellant, states bedroom 5 would receive adequate natural light using the DF_T test as prescribed by the BRE guidance and BS EN 17037:2018. I therefore conclude this bedroom would receive sufficient levels of natural light for future occupiers to spend long periods of time within.
22. The outlook from bedroom 5 would be towards the neighbouring property. I find that, the outlook would be acceptable to the living conditions of the proposed occupiers.
23. Based on the above, I conclude that the proposed development would provide its occupants with acceptable living conditions with respect to natural light and outlook. In this respect, the proposed development would therefore accord with Policy DM1, Policy DM3 and Policy DM8 of the Council's DMD (2015), which together require all development to protect the amenity of the site and have regard to living conditions and amenity of the intended occupants, including in respect to outlook and daylight, amongst other criteria. The proposed development would also accord with Policy KP2 and Policy CP4 of the Core Strategy (2007) in this respect, which together seek for development proposals to create a high quality and sustainable urban environment.
24. In addition, the proposed development would accord with the Framework (2024) in respect to daylight and outlook, particularly paragraph 124 which states planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It would also accord with paragraph 135(f) of the Framework in this regard, which states planning decisions should ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.

Fallback position for an alternative development

25. The appellant sets out that there is a fallback position in that the Council issued a certificate of lawful development (25/00269/CLP) in April 2025 for the change of use of the property from a dwellinghouse (Class C3) to a 6 bed HMO (Class C4).
26. Plans of the fallback scheme (25/00269/CLP) were provided as an appendix to the Council's statement of case. From the information before me, I consider that the fallback has a real prospect of being implemented if this appeal is dismissed. Consequently, this fallback position is a material consideration in the determination of the appeal scheme. However, for significant weight to be afforded to a fallback position, there needs to be not only a greater than theoretical possibility of it taking place, but also it would need to be equally or more harmful than the appeal scheme.
27. The most significant and relevant differences between the two schemes is the addition of only one en-suite bedroom in the roof space for the fallback scheme (rather than two in the appeal scheme), and the inclusion of a TV room on the ground floor (in the place of bedroom 2 in the appeal scheme). The size of the kitchen/ diner would be the same between the two schemes. The size of the communal living space for the 6 bed HMO fallback scheme would therefore be much larger than the appeal scheme. The fallback scheme is therefore significantly less harmful to the living conditions of the future residents than the appeal scheme.

Other matters

28. My attention has been drawn to a number of other recent decisions in the area that were allowed. In the cases of 36 Gordon Road (25/00062/FUL) and 47 Woodgrange Drive (15/00091/FUL), the kitchen/ diner areas were larger and the layout of the dining areas were more conducive for a pleasant kitchen/ dining space. In the case of 47 Old Southend Road (24/00685/FUL), I note this was for a 7 bedroom HMO, which would require less kitchen/ dining space than the proposed development. In the case of 11 Honiton Road (25/00536/FUL) which was allowed on appeal, I note this was also for a 7 bedroom HMO. The main issues of the appeal were not related to the living conditions in respect to the kitchen/ dining area, which was larger than that of the proposed development, with the layout more conducive for a pleasant kitchen/ dining space. However, circumstances presented in cases differ and I must consider this appeal based on its own merits.

Conclusion

29. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Ms Beloe

INSPECTOR