



Appeal Decision

Site visit made on 9 December 2025

by **F. Bradley BRP (NZ) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 January 2026

Appeal Ref: APP/D1590/W/25/3373859

47 Heygate Avenue, Southend-on-Sea SS1 2AN

- 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 Mrs Rubina Shaheen against the decision of the Southend-on-Sea City Council.
 - The application ref is 25/00925/FUL.
 - The development proposed is described as “three bedsits rear of 47 Heygate”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description provided on the Council's decision notice and that provided by the appellant differ. For clarity, I am proceeding with the appeal based on the description of development as above which is taken from the application form as that is what the appellant applied for and is reiterated in the appeal documentation. I have removed reference in the description to “retrospective” as this does not relate to the act of development. The development has commenced as the three units have been created and are occupied.

Main Issues

3. The main issues are the effects of the proposed development on:
 - the living conditions of its occupiers with particular regard to internal space and privacy; and
 - highway safety with regard to parking and manoeuvring space within the site.

Reasons

Living conditions

4. The appeal site is within a predominantly residential area near the town centre. The appeal site comprises a detached two storey building with rooms in the roof and is described as a hotel. A driveway lies to the side of the building providing access to the rear of the site. The outbuilding subject of this appeal is at the rear of the site and extends across its width. An area of hardstanding lies between the outbuilding and the hotel.
5. Each of the three units has its own front door, which is partially glazed, and a window or windows in the front elevation facing onto the hardstanding area. The units each include a bathroom and a main room which includes a kitchen and

living and sleeping area. The bathrooms have high level windows and Units 1 and 3 also have high level windows on the rear elevation within the kitchen area. The proposed amenity space has not yet been provided but would be located to the front of each unit.

6. The units are all self-contained. Although the appellant references the communal living and sitting area within the hotel building being available, no evidence has been provided detailing the communal facilities available or how they would be accessed by the occupants.
7. Development Management Document (DMD) policy DM3 seeks to resist development where there would be a detrimental impact upon the living conditions of future residents. Reference is made to the Nationally Described Space Standards which set out the minimum gross internal area (GIA) for new dwellings. The minimum unit size for a studio flat is 37sqm where a 1 bedroom, 1 person unit has a shower room instead of a bathroom and a minimum of 1sqm of built-in storage. A 1 bedroom, 2 person studio flat would require a minimum 50sqm GIA and 1.5sqm of built-in storage. The units have a GIA of 20sqm, 19sqm and 22sqm respectively and therefore all three units fall significantly short of the minimum standards sought. Occupants would, therefore, be subject to cramped living conditions.
8. The hotel has rear windows at ground, first and roof level, which face towards the front of the units. In addition, on the rear elevation of the hotel building at first floor level is a balcony that faces the units. Reference is made to the view from the windows in the hotel being significantly restricted due to the angle of view. However, the levels of the windows in the hotel, particularly at ground and first floor levels, together with their proximity to the units, are such that they would directly overlook the front of the units and the proposed external amenity areas. This would result in a lack of privacy within the habitable rooms of the units and the external amenity areas.
9. The appellant is of the view that the external amenity space would primarily be used for purposes such as obtaining fresh air and maintaining mental wellbeing, rather than for activities requiring a high degree of privacy. Even if this was the case, it would still be expected that occupants would be afforded some privacy within the external amenity area.
10. For the reasons above, the development would result in the unacceptable living conditions of its occupiers with particular regard to internal space and privacy. This would conflict with Core Strategy (CS) policy CP4 and DMD policies DM1, DM3 and DM8 which collectively seek to resist proposals which have a detrimental impact on the living conditions and amenity of future residents, including through the provision of external amenity space. The development also conflicts with paragraph 135 of the National Planning Policy Framework (Framework), which seeks to ensure that developments create places which promote health and well-being, with a high standard of amenity for existing and future users.
11. The Council also refers to CS policy KP2 which sets out development principles, including a sequential approach to the siting of development, and as such it is not relevant in my consideration of this appeal.

Highway safety

12. This section of Heygate Avenue operates as a one-way street. The carriageway is notably constrained, functioning as a single lane due to the presence of on-street parking along both sides. In several locations the street narrows further, where the kerb and areas of hard and soft landscaping extend into the carriageway, providing traffic-calming features. The street lies within a controlled permit parking zone, with restrictions in force between 9am and 6pm. A limited number of properties benefit from off-street parking provision, including the appeal site.
13. At the time of my site visit, undertaken mid-morning on a weekday, the street was heavily parked, with very few available spaces observed. Although my visit represents only a snapshot in time, the road did not appear to be heavily trafficked and any traffic I did see on the street was moving at low speed.
14. Two car parking spaces are proposed on site within the existing area of hardstanding between the hotel and outbuilding, with one space proposed for the development. The Council is satisfied with the provision of a single parking space for the three units, and I have no compelling reason to disagree with the Council in this regard.
15. The rear of parking space No 2 is located less than 4m to the fence on the side boundary of the site. By reason of the constrained space provided there would be insufficient space for a vehicle to manoeuvre effectively within the site and ensure the parking space is usable. Furthermore, no evidence has been provided to demonstrate that access/egress can be safely achieved.
16. In conclusion, the development would have a harmful effect on highway safety with regard to parking and manoeuvring space within the site. The proposal would conflict with DMD policies DM3 and DM15 which support development which optimises the use of land provided it would not lead to over-intensification and which have the capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner. The development would conflict with paragraph 116 of the Framework which states that development should be refused if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The Council also refers to CS policy CP3. This is a strategic policy and for that reason is not relevant to the determination of this appeal.

Other Matters

17. The Council has confirmed that the results of the Housing Delivery Test demonstrate an underperformance of housing delivery. Furthermore, the Council has confirmed that it cannot demonstrate five years housing land supply. Whilst the Council has not provided the relevant figures of the shortfalls, paragraph 11(d)(ii) of the Framework is engaged. It sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the key policies identified at its footnote 9.
18. The proposal would make an efficient use of land by contributing towards and addressing the shortfalls in the Council's housing supply and delivery positions in an accessible area. It has also been put forward that the units would provide a

more affordable form of accommodation which is needed in the area. When taken together, the benefits identified weigh moderately in favour of the development.

19. The proposal would result in an unacceptable effect on highway safety. This harm is given moderate weight in the planning balance. Having regard to the specific matters raised in paragraph 11(d)(ii) and its associated footnote 9, and paragraph 135 as referenced earlier, the adverse impacts to the living conditions of the occupants and the harm to highway safety significantly and demonstrably outweigh the benefits. Therefore, the Framework does not indicate in favour of the development.
20. The failure of this appeal could affect the living arrangements for the occupants of the units which the appellant states currently include elderly persons. Reference is also made to a mother and child however they are not listed as being current occupants in the appeal statement and I saw no evidence of a child being resident in any of the units. I have had due regard to Article 8 of the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age is a protected characteristic to which the PSED applies. These rights are engaged in reaching my decision. However, they are qualified rights and interference may be justified where it is in the public interest. The concept of proportionality is key.
21. To allow the appeal would not eliminate discrimination or promote equality of opportunity. I have had regard to the development plan policies and the Framework, which aim to provide a suitable standard of accommodation in the public interest.
22. I have given consideration as to whether any conditions could be imposed to mitigate the harm identified, but the protection of the public interest cannot be achieved by means that are less interfering with the human rights of the occupants.
23. Reference is made to the site being within a Zone of Influence of the Essex Coast. As the development is for three self-contained units, were I minded to grant permission, I would need to consider whether the development would adversely affect the integrity of any potentially relevant habitats sites. However, as I am dismissing for other reasons, there is no need to undertake an appropriate assessment.

Conclusion

24. In conclusion, the development conflicts with the development plan as a whole. There are no material considerations that outweigh the harm identified.
25. Furthermore, I have had due regard to the HRA 1998 and the PSED as set out in the Equality Act 2010. It is proportionate and necessary in the circumstances to dismiss the appeal.

F. Bradley

INSPECTOR