
Appeal Decision

Site visit made on 22 January 2026

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2026

Appeal Ref: APP/D1590/W/25/3374536

82 Fairfax Drive, Westcliff-on-sea, Southend-on-sea SS0 9AF

- 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 Tom Brazier against the decision of Southend-on-Sea.
 - The application Ref is 25/00891/FUL.
 - The development proposed is conversion of existing outbuilding into a residential property including raising of roof line.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision, the appellant has submitted an amended plan¹ showing a revised internal layout and relocating first-floor side windows from the northern to the southern elevation. The scheme considered at appeal should be essentially the same as that considered by the Local Planning Authority. In the context of the main issues, I consider this to be a significant change. There is no evidence that interested parties have been notified of the amendment or given the opportunity to comment, which would result in procedural unfairness. For these reasons, I will not accept the plan.
3. There is a previous appeal decision for the site dated October 2024² (the 2024 appeal). Whilst I do not have the accompanying plans, the description of development appears to be very similar to that before me, aside from the inclusion of amenity space. No material changes in circumstances since that appeal, which was dismissed, have been identified.
4. In these circumstances, the 2024 appeal is a highly relevant material consideration. Although I have assessed the current scheme on its own merits and reached independent conclusions, I have had regard to the findings of the 2024 appeal.

Main Issues

5. The main issues are the effect of the development on:
 - the character and appearance of the area
 - the living conditions of no 84, with regard to overlooking and privacy, and

¹ Plan ref FD0BR-05

² APP/D1590/W/24/3342061 dated 30 October 2024

- the standard of accommodation for future occupiers, with regards to outlook, privacy and external amenity space.

Reasons

Character and appearance

6. The Southend-on-Sea Design and Townscape Guide 2009 (SPD) places clear emphasis on reinforcing the positive characteristics of an area, maintaining continuity of frontage, and respecting the original scale, proportions and form of existing buildings. It advises that development which fails to respond positively to its context risks diluting local distinctiveness and harming the visual coherence of the street scene. In applying these principles to the appeal scheme, I am mindful that the conversion of a garage to a separate dwelling has the potential to disrupt the established character and appearance of the area, particularly where a strong sense of rhythm and symmetry forms a defining feature of the street.
7. The appeal building is a single-storey detached outbuilding of a modest scale located to the rear of 82 Fairfax Drive (no 82), fronting Shakespeare Drive in a gap between the linear street patterns of Fairfax and Shakespeare Drives. Its setback aligns with properties along that side of Shakespeare Drive. The street itself is characterised by two-storey residential dwellings typical of late Victorian and Edwardian suburban housing, displaying a broadly consistent height, rhythm, building line and plot width, with the northern side predominantly formed by short terraces.
8. In this context, the addition of a first floor, raising the ridge line, introducing a timber shed and the enlargement of the associated curtilage would fundamentally alter the role of the building, changing it from an incidental structure functioning within the curtilage of No. 82 to an independent residential dwelling. While the street is characterised by residential dwellings, the resulting development would nonetheless appear appreciably smaller in terms of height, bulk, massing, footprint and curtilage when compared to the prevailing built form. The existing building already differs from surrounding buildings in form; however, its modest scale, simple form and clearly subordinate function ensure that it does not visually compete with, or disrupt, the established pattern and hierarchy of development within the street scene.
9. The proposal would accentuate this disparity rather than assimilate with the surrounding context. It would lack the architectural detailing and elevational articulation that contributes to the character of surrounding properties, including features such as brick window surrounds, arched openings and eaves detailing. Taken together, the differences in scale, form, proportions and detailing would result in a building that appears visually incongruous, failing to reinforce the continuity of frontage and visual coherence that define the character and appearance of the street.
10. In light of the above, the proposal would fail to respond positively to its context and would not respect the character, scale and form of the site and the wider area and would therefore conflict with the guidance contained within the SPD. For these reasons it would also be contrary to Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 (CS) and Policies DM1 and DM3 of the Southend-on-Sea Development Management Document 2015 (DMD) which collectively require development to achieve a high standard of design that respects local character,

reinforces local distinctiveness, and integrates successfully with the existing townscape setting.

Living conditions

11. No. 84 Fairfax Drive is the immediate neighbouring property to No. 82, and the existing outbuilding projects significantly across the rear garden of No. 84, with no meaningful separation or intervening buffer between the two. This results in an unusually close and direct relationship between the private rear garden of No. 84 and the appeal building. As previously noted by the Inspector, a window within the rear elevation of the building already directly overlooks the rear garden access and garden shed of No. 84.
12. This relationship facilitates direct overlooking of the rearmost and most private part of the garden, being the area where occupiers would reasonably expect the highest level of privacy. In addition to direct overlooking from the window itself, the proximity of the building affords oblique views across a significant proportion of the garden. The associated loss of privacy would be compounded by the audible presence of future occupiers, with noise arising from the regular use of the window serving to heighten neighbours' awareness of activity within close proximity. Taken cumulatively, these factors would give rise to a significant and materially harmful impact on the living conditions of neighbouring occupiers.
13. Although the size and position of the window would remain unchanged, the use of the building as an independent residential dwelling would represent a clear intensification when compared to its existing incidental or ancillary function. This would materially increase both the frequency and duration of overlooking, noise and general activity. The resulting effects cannot reasonably be equated with the intermittent and low-key use typically associated with an incidental outbuilding and would therefore result in a markedly different and greater level of harm to the amenities of neighbouring occupiers.
14. While the appellant makes reference to the potential use of the building as a workshop, no substantive evidence has been provided to demonstrate that such a use would be lawful or has been previously authorised. In addition, the assertion that the building would fall into disrepair should the appeal be dismissed contradicts the suggestion that it might be brought back into use as a workshop. In any event, these considerations do not lessen or avoid the harm identified and carry very limited weight.
15. As the window in question would serve as the primary source of light and outlook for the proposed kitchen and dining area, it would not be reasonable or realistic to require obscure glazing. Any condition to require obscure glazing would impose an unacceptable constraint on the future occupiers' living conditions and would therefore fail the tests of reasonableness and necessity. As such, I am not persuaded that the identified overlooking and loss of privacy could be adequately mitigated through condition.
16. For the reasons set out above, the proposal would cause material harm to the living conditions of neighbouring occupiers at No 84. As such the proposal would conflict with Policies KP2 and CP4 of the CS, and Policies DM1 and DM3 of the DMD and the advice contained within the SPD. Insofar as relevant, these require proposals to safeguard the living conditions of neighbouring occupiers including through avoiding unacceptable harm by way of overlooking and a loss of privacy.

Standard of accommodation

17. For similar reasons to those identified above, the close proximity of the rear facing window, which would serve the kitchen and dining area, would facilitate direct intervisibility between the proposed accommodation and the rear garden of No. 84. This relationship would result in a lack of privacy for future occupiers, while at the same time enabling direct and close range overlooking of neighbouring garden space.
18. In reaching this view, I note that the previous Inspector identified that “even where no one is present in the neighbouring garden, the knowledge that someone could come right up to the window would create a perception of overlooking and a constant sense of unease”, particularly given the private nature of internal living spaces. While that observation related to a bedroom window, the same principle applies in this case to a primary habitable room, where future occupiers would reasonably expect a degree of privacy and outlook commensurate with permanent residential accommodation.
19. Any attempt to mitigate these effects through the use of curtains, blinds or obscure glazing would unacceptably compromise the standard of accommodation by restricting both outlook and daylight to the main living space. In this regard, I am not persuaded that the adverse effects identified could be adequately or reasonably mitigated. There are no material changes before me which would lead to a different assessment from that previously reached, and I similarly find that the proposal would fail to provide a satisfactory level of privacy for future occupiers.
20. In addition, no private external garden space is proposed for the dwelling. The limited external area would be occupied by cycle and refuse storage alongside a hard surfaced driveway for parking, which would not constitute usable private amenity space as required by Policy DM8 of the DMD. I also note that the internal space only slightly exceeds the minimum internal space standards, this adds further weight to the need for external amenity space.
21. I acknowledge that the appeal site benefits from close proximity to publicly accessible open spaces, including Gainsborough Park and, slightly further afield, Priory Park, which together provide high quality recreational opportunities. However, access to public open space does not negate the policy requirement for on site private amenity space, nor would it compensate for the absence of a private external area suitable for activities such as sitting out, children’s play or the drying of clothes. Policy DM8 is clear that schemes without external amenity space will only be supported in exceptional circumstances, and there are no such circumstances before me which would approach or justify that threshold.
22. For these reasons, I find that the proposal would fail to provide a suitable standard of accommodation for future occupiers, with regards to outlook, privacy and external amenity space, and the proposal is therefore contrary to Policies KP2 and CP4 of the CS, Policies DM1, DM3 and DM8 of the DMD, and advice contained within the SPD. As far as relevant, these require that proposals provide a high standard of accommodation, including through the provision of private external amenity space.

Other Matters

European Protected Sites

23. The Council have indicated that the appeal site lies within the Zone of Influence for one or more European designated sites. As the proposal would result in an additional dwelling, it is reasonably likely that future occupiers would make recreational use of these sites. Accordingly, when considered in combination with other development, likely significant effects cannot be ruled out.
24. The appellant has indicated a willingness to make a financial contribution towards mitigation under the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS) and suggests that this could be secured by condition. However, as the mitigation would take the form of a financial contribution, it cannot be adequately secured through a planning condition.
25. The Conservation of Habitats and Species Regulations 2017 (as amended) require an Appropriate Assessment to be undertaken where likely significant effects cannot be excluded. However, Regulation 63 only requires such an assessment where the decision maker is granting consent. In view of the harm I have identified above, it has therefore not been necessary to consider this matter further.

Social and economic benefits

26. There would be a modest benefit in the delivery of an additional dwelling in a sustainable location, which would make a small contribution towards the government's target to significantly boost the supply of homes. The construction of the dwelling would deliver temporary economic benefits.
27. The appellant has highlighted the potential of the site to provide a starter home for younger members of society. There are no mechanisms before me to secure the dwelling as a starter home, or for younger members of society, furthermore there is no specific evidence before me of a particular need for this group. Nonetheless, they are a group of society which potentially stand to benefit from an increase in the supply of housing.
28. The delivery of a single dwelling would result in additional spending within the area and the proposal would provide financial contributions to local infrastructure in line with the Community Infrastructure Levy, to avoid a burden on local services and infrastructure.

Housing land supply

29. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites, with just 3.48 years. As such, paragraph 11d) of the Framework is engaged.

Planning Balance and Conclusion

30. Having regard to both the poor housing land supply position, together with the modest scale of the scheme, I attribute the social and economic benefits above associated with the provision of a single dwelling, modest weight.
31. Nonetheless, the harm identified by way of adverse effects on the character and appearance of the area, the living conditions of neighbouring occupiers and the standard of accommodation for future occupiers would each be significant.
32. Collectively, I attach significant weight to these harms. When assessed against the policies of the Framework taken as a whole, even when having particular regard to

key policies for directing development to sustainable locations, the adverse impact of granting planning permission would significantly and demonstrably outweigh the modest benefits of one residential unit. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.

33. The proposal conflicts with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with the development plan.

R Lawrence

INSPECTOR

