Planning Inspectorate

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: 19 February 2026

Appeal Ref: APP/D1590/W/25/3374855
184 Eastern Esplanade, Southend on Sea SS1 3AA

- 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 Ms Teresa Jones against the decision of Southend-on-Sea City Council.
- The application Ref is 25/00273/FUL.
- The development proposed is change of use from guesthouse C1 to dwellinghouse C3.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for a partial award of costs was made by Ms Teresa Jones against the decision of Southend-on-Sea City Council. That application will be the subject of a separate decision.

Preliminary Matters

3. The appellant has submitted an updated unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 during the appeal, together with subsequent revisions and official Land Registry documents. The UU includes a planning obligation which would, in principle, secure an index-linked financial contribution of £163.86 in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (May 2020). The Council has been invited to comment on these revisions and documents. I address this further in my reasoning below.

Main Issues

4. The main issues are the effect of the development on:

    - European designated sites along the Essex Coast, and
    - the supply of visitor accommodation.

Reasons

Essex Coast designated sites

5. The appeal site lies within the Zone of Influence of several European designated sites along the Essex Coast. These sites are valued coastal habitats that support internationally important populations of breeding and non-breeding birds. Natural England has identified them as vulnerable to harm from increased recreational disturbance associated with new residential development. In response, the RAMS sets out a strategic approach to mitigation. It requires a tariff for each new dwelling

to fund management and mitigation measures that address recreational pressure. The measures are intended to strengthen the resilience of the sites and include education and awareness initiatives, fencing, waymarking and screening, access control, and increased enforcement of site regulations.

6. Although a signed UU has been submitted which, in principle, would secure the required financial contribution in line with the RAMS, the mortgagee has not signed the document and its consent has not been added. Without the mortgagee's agreement, I cannot be confident that the obligation would be enforceable. If the mortgagee, who is not party to the obligation, were to repossess all or part of the site in the future, it could implement any extant planning permission without being bound by the UU.

7. I need to be satisfied at the stage of Appropriate Assessment that mitigation to avoid a likely significant effect is certain so that no reasonable scientific doubt remains regarding the impact of the development on the international sites. In the absence of such certainty, and taking a precautionary approach, I cannot conclude that the proposal would avoid an adverse effect on the integrity of the Essex Coast designated sites. I therefore find conflict with Regulation 63 of the Habitats Regulations and with Policies KP1, KP2 and CP4 of the Core Strategy and Policy DM6 of the Development Management Document. These policies together seek to protect the natural environment, with specific regard to the coastal habitats.

The supply of visitor accommodation

8. Evidence of business performance is submitted in the form of trading accounts and occupancy charts. The accounts span a three-year period from 2021 to 2024 and provide a sufficient evidential base from which to assess performance trends. While the figures show an operational surplus in each year before adjustment, this position is dependent on the continued absorption of labour and management functions by the owner, with limited or no allowance for market-level remuneration.

9. As such, the business operates in substance as a lifestyle business rather than as a commercially sustainable undertaking. Once reasonable allowances are made for manager wages, finance at commercial rates and ongoing compliance requirements, the evidence shows that the operation would generate a material loss, even in what is identified as the strongest trading year. I therefore place greater weight on the adjusted figures, which more accurately reflect commercial reality.

10. Occupancy evidence is provided through monthly charts, accompanied by a clear explanation that these constitute the only surviving primary records from a booking system that has since been closed. The charts cover a sufficiently representative period and indicate consistently low occupancy levels throughout the year, with no sustained improvement over time or during peak trading periods.

11. Reference is made to an indicative industry benchmark of 65 to 70 per cent occupancy as being necessary to sustain a small guesthouse. While the source of this benchmark is not clearly identified, it nonetheless provides useful context. In any event, occupancy levels fell markedly below that range for an extended period, including during peak months.

12. The Council does not identify any material shortcomings in the evidence, whether in respect of the accuracy of the accounts, the validity of the occupancy

information, or the appraisal method applied. Nor does it point to any alternative interpretation of the data. Given these factors, I attach significant weight to the sustained pattern of low occupancy, particularly when considered alongside the trading accounts, in assessing recent business performance in accordance with paragraph 5.37, and the question of viability more generally.

13. Details are provided of a comprehensive and sustained marketing exercise undertaken between February 2022 and April 2025, significantly exceeding the two-year period required by Appendix 4 (Part A) in support of policy DM12. Throughout that period, the appeal site was continuously marketed through recognised online channels and by four separate reputable commercial property agents, ensuring wide exposure to the open market. The evidence documents a limited number of enquiries and viewings, despite this prolonged and varied marketing approach.

14. The marketing history also records a series of progressive and material reductions in the asking price, which indicates a genuine and responsive effort to secure a purchaser willing to continue the existing use. I have seen no substantive evidence to suggest that the marketing strategy was deficient, poorly targeted or unreasonably constrained, nor that the asking prices failed to reflect prevailing market conditions.

15. Notwithstanding these efforts, the marketing exercise was unsuccessful. In the context of Appendix 4 (Part A), this outcome carries significant weight and provides a strong indication that there is limited demand for the continued use of the property as visitor accommodation. Taken together, the duration, nature and outcome of the marketing exercise constitute credible proof of marketing for sale and support the conclusion that the appeal site is not viable in its current form.

16. The Council places reliance on paragraph 5.37 of the supporting text and contends that insufficient evidence has been provided to demonstrate that marketing and business plans have been explored or adopted, to address viability issues. In particular, it draws attention to the absence of formal business plans.

17. Policy DM12 and its supporting text do not require alternative business models to be explored or tested, although in some cases it is clear this could be helpful. Marketing and business plans are identified as examples of how professional management may be evidenced, not as mandatory requirements in every case. In this case, professional management is demonstrated through the monitoring of performance and use of a commercial booking and management system, which is appropriate to the scale of the operation. When this is considered alongside the sustained period of marketing and the flexible approach expressly provided for smaller lifestyle businesses in paragraph 5.39, I am satisfied that there is sufficient evidence of professional management for the purposes of Policy DM12.

18. Based on the above, I am satisfied that the proposal would avoid a harmful effect on the supply of visitor accommodation. The proposal would therefore accord with Policies KP1, KP2 and CP1 of the Core Strategy and Policy DM12 of the Development Management Document. Taken together, these policies seek, among other aims, to enhance the seafront as a successful leisure and tourist destination and to retain visitor accommodation within the Key Areas.

Planning Balance and Conclusion

19. The proposal would generate several social and economic benefits, including a modest but valuable contribution to the supply of housing, along with increased footfall and local spending. These benefits would support the government's aim to significantly boost the supply of homes. While I have found the proposal acceptable in terms of its effect on the supply of visitor accommodation, this is a neutral consideration. However, the proposal would conflict with policies relating to the Essex Coast European sites. This harm carries significant weight and clearly outweighs the identified benefits. I therefore find conflict with the development plan when read as a whole.

20. I acknowledge that the Council is currently unable to demonstrate a five-year housing land supply and that there is a shortfall in housing delivery. In such circumstances, footnote 8 of the Framework indicates that the policies most important for determining the application are considered out of date.

21. Even so, the Essex Coast European sites are protected areas of particular importance. Given my findings above, the harm to their integrity provides a strong reason for refusing the scheme. As a result, the presumption in favour of sustainable development does not apply.

22. For the reasons set out above, I conclude that the proposal conflicts with the development plan and that the material considerations do not justify a decision other than in accordance with it.

23. The appeal is therefore dismissed.

R Lawrence

INSPECTOR