

Reference:	23/00112/UNAU_B	
Report Type:	Enforcement	
Ward:	Kursaal	
Breach of Planning Control:	Use of dwellinghouse for short term lets	
Address:	49 Christchurch Road, Southend-on-Sea, Essex, SS2 4JW	
Case Opened Date:	21 June 2023	
Case Officer	Edward Robinson/ Gabriella Fairley	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	

49 Christchurch Road, Southend-on-Sea, Essex



1 Site and Surroundings

- 1.1 The site is on the western side of Christchurch Road and contains a terraced two-storey house. The site does not have any off-road parking.
- 1.2 The site is not within a conservation area or subject to any site-specific planning policies.

2 Lawful Planning Use

- 2.1 The lawful planning use of the site is a dwellinghouse (Class C3).

3 Relevant Planning History

- 3.1 23/01441/FUL – ‘Change of use from dwellinghouse (Class C3) to short term let rental unit (Sui Generis) (retrospective).’ Application Refused November 2023. A copy of the officer report is at **Appendix 1**.

Reasons for refusal:

- 01 *The development is not appropriately located for the purposes of providing visitor accommodation and the use of the property for visitor accommodation and as a short term let reduces the provision of valuable residential resources, to the detriment of the quantity and quality of the City’s housing stock against the background of an un-met strategic housing need. The application is therefore found to be unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, CP4 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM12 of the Southend-on-Sea Development Management Document (2015).*
- 02 *It has not been satisfactorily demonstrated that the development would not result in a loss of amenity for neighbouring occupiers through noise and disturbance associated with the types, levels and times of activity undertaken by the premises’ occupiers nor that such impacts could reasonably be overcome through conditions. The development has a materially harmful effect on the living conditions of neighbours in this respect. This is unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).*
- 3.2 A subsequent appeal to the Planning Inspectorate reference APP/D1590/W/23/3333854 was dismissed in May 2024. A copy of the decision is at Appendix 2.

4 Planning Policy and Legislation Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning Practice Guidance (PPG) (2024)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP4 (Environment and Urban Renaissance)

- 4.5 Development Management Document (2015)
- 4.6 Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 Waste Storage, Collection and Management Guide for New Developments (2019)
- 4.8 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 4.9 Town and Country Planning Act 1990 (as amended): Sections 55, 56, 171A, 171B, 172, 173, 336.
- 4.10 The Town and Country Planning (Use Class) Order 1987 (as amended)
- 4.11 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because it is considered expedient to issue an Enforcement Notice and this action requires authorisation by the Committee.

6 The alleged planning breach

- 6.1 The identified breach of planning control is:

Unauthorised change of use from dwellinghouse (Class C3) to short term let rental unit (Sui Generis) ie the building is being used for short term visitor accommodation.

7 Efforts to resolve the breach to date

- 7.1 In June 2023 a complaint was received by the Council about this property being used for short term lets. The allegation also referred to people coming and going and anti-social behaviour taking place. In terms of these forms of alleged anti-social behaviour, that is a matter that lies outside of planning control and is investigated by separate parts of the Council using other relevant legislation.
- 7.2 In June 2023 an officer site visit was completed, and site photographs were obtained. The site visit confirmed that the property had a key safe mounted to the outside wall and was not occupied at the time of that visit. Further research was completed, and the property was identified as listed on the 'Airbnb' website. Following the site visit, a letter was sent to the owner inviting a retrospective planning application to seek to regularise the unauthorised change of use. In September 2023, a retrospective planning application was received (23/01441/FUL) for change of use from dwellinghouse (Class C3) to short term let rental unit (Sui Generis) (retrospective). In November 2023, that application was refused for the reasons stated in paragraph 3.1 above.
- 7.3 In December 2023 an appeal was lodged against the planning refusal. In May 2024 the appeal was dismissed by the Planning Inspectorate. In summary the appeal decision endorsed both reasons for refusal of the planning application.

8 Appraisal

- 8.1 Consistent with the basis of the reason for refusal of the 2023 planning application, subsequently supported at appeal, both of which can be viewed in detail at Appendices 1 and 2 to this report, the unauthorised development, as a result of its location, is not appropriate for the purposes of providing visitor accommodation and this use reduces the provision of valuable residential resources to the detriment of the quantity and quality of the City's housing stock against the background of a demonstrable un-met strategic housing need. It has been found that the unauthorised short term lets use is having a significantly harmful effect on neighbours' amenities. Also, based on the retrospective and unsuccessful application content, it has not to date been demonstrated that matters relating to amenity in terms of noise and disturbance associated with the types, levels and times of activity at the site have been considered by the operator or that they can be reasonably mitigated or controlled through planning conditions. The unauthorised development is therefore found to be unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, CP2 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM12 of the Development Management Document (2015). The Inspector dismissed the appeal as they found that the harm identified through the inappropriate location of this visitor accommodation, its impact on housing stock and its impacts on residential amenity outweigh the benefits.

Enforcement and Legal Action

- 8.2 Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. Enforcement action in this case will reasonably aim to stop the unauthorised use and reinstate the lawful dwellinghouse use (Class C3) .It is considered that there are no lesser steps that could reasonably remedy the identified breach or associated harm in this instance.
- 8.3 When serving Enforcement Notices the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of three months is considered reasonable for compliance with the above requirements.
- 8.4 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served on the responsible parties as this will bring further focus to the need for the breach to be regularised and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owners in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 8.5 Taking enforcement action in this case may amount to an interference with the owners'/occupiers' human rights. However, it is necessary for the Council to balance the rights of the owners/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

Equality and Diversity Issues

- 8.6 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment, and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this planning enforcement case and

preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

9 Recommendation

9.1 AUTHORISE ENFORCEMENT ACTION to include the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice to require those issued with a copy of the Enforcement Notice to:

a) Cease use of the site for the provision of short term lets (sui generis)

AND

b) Revert the site to a dwellinghouse (Class C3).

AND

c) Restore the land to its condition before the breach took place;

AND

d) Remove from site all materials resulting from compliance with a) above.

9.2 With time for compliance of:

- Three (3) calendar months.

9.3 For the following reason(s):

01 The development is not appropriately located for the purposes of providing visitor accommodation and the use of the property for visitor accommodation and as a short term let reduces the provision of valuable residential resources, to the detriment of the quantity and quality of the City's housing stock against the background of a demonstrable un-met strategic housing need. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, CP4 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM12 of the Southend-on-Sea Development Management Document (2015).

02 It has not been satisfactorily demonstrated that the development is not causing, and would not cause, a loss of amenity for neighbouring occupiers through noise and disturbance associated with the types, levels and times of activity undertaken by the premises' occupiers nor that such impacts can reasonably be overcome through planning conditions. The development is significantly harming the living conditions of neighbours in this respect. This is unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

Appendix 01



Reference:	23/01441/FUL
Application Type:	Full Application
Ward:	Kursaal
Proposal:	Change of use from dwellinghouse (Class C3) to short term let rental unit (Sui Generis) (retrospective)
Address:	49 Christchurch Road, Southend-on-Sea
Applicant:	Mr And Mrs Turner
Agent:	Mr Ashley Robinson of A R Property Designs
Consultation Expiry:	19th October 2023
Expiry Date:	2nd November 2023
Case Officer:	Kara Elliott
Plan Nos:	2
Supporting Documents:	Design and Access Statement
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application site contains a terraced, two-storey former dwellinghouse on the west side of Christchurch Avenue. The area is residential in character consisting predominantly of two-storey dwellings of traditional appearance.
- 1.2 The site is not within a conservation area, is not within a visitor accommodation area or subject to any site-specific planning policies.

2 The Proposal

- 2.1 The application seeks planning permission to change of the use of the building from a single family dwellinghouse (Class C3) to a short-term holiday let (sui generis). This application has been submitted following an enforcement investigation. The change of use of the dwelling has been undertaken without planning permission and this application is therefore retrospective in nature.
- 2.2 The application building contains habitable accommodation across two floors, comprising five bedrooms (one being the ground floor "back room"), one bathroom, 1 WC, kitchen/dining room and living accommodation.
- 2.3 The submitted design and access statement has not provided any information regarding maximum occupancy or letting periods. There is no off-street parking.

3 Relevant Planning History

- 3.1 No historic applications. 23/00112/UNAU_B - Enforcement enquiry pending.

4 Representation Summary

Public Consultation

4.1 11 neighbouring properties were notified of the application by letter and a site notice displayed. 18 letters of representation and video footage has been received. Summary of representations:

- Antisocial behaviour from guests
- Parking and highway impacts
- Should be turned back into a house
- Noise and general disturbance
- Feeling unsafe
- Unlawful parking
- Littering
- Loss of family dwelling
- Increased activity and comings and goings
- Unwelcome activities on site
- The proposal goes against the fabric of the area
- Not located within the Visitor Accommodation Area
- Application form dishonest; property is not empty
- Decline in local economy from use

[Officer Comment: All relevant planning considerations have been assessed within the appraisal section of the report. These concerns are noted and they have been taken into account in the assessment of the application. Other than as reflected in Section 7 of this report, the remaining points of objection are not found to justify refusing planning permission in the circumstances of this case.]

Environmental Health

4.2 No objections subject to conditions relating to refuse management.

Highways

4.3 No objection. Comments: The site benefits from being in a sustainable location with regard to public transport with good links in close proximity. It was noted on the site visit that hardstanding has been constructed this area is not suitable to accommodate a vehicle as it does not meet the vehicle crossover policy and has no drop kerb. This information will be passed to our enforcement team for future monitoring and should a vehicle park there, enforcement action will be taken.

Community Safety Anti-Social Behaviour

4.3 Objects. Comments: Numerous complaints received regarding general anti-social behaviour, noise nuisance including late night activity in the garden with loud voices and music to inconsiderate and dangerous parking issues and threatening behaviour towards occupiers of neighbouring properties. Essex Police have an open crime investigation at the property in relation to these issues.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2023)

5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)

5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4

(Environment & Urban Renaissance) and CP8 (Dwelling Provision)

- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM8 (Residential Standards) DM12 (Visitor Accommodation) and DM15 (Sustainable Transport Management)
- 5.5 The Southend-on-Sea Design and Townscape Guide (2009)
- 5.6 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020)
- 5.7 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.8 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Appraisal

Principle of Development

- 6.1 Policy KP2 of the Core Strategy seeks development that meets the Council's strategic objectives and that secures improvements to the urban environment. Policy CP4 seeks to promote sustainable development, maximising the use of previously developed land. Policy CP8 seeks to support development proposals that contribute to local housing needs including the re-use of previously developed land. It identifies housing targets for Southend and seeks to protect the supply of valuable residential resources.
- 6.2 Policy DM12 of the Development Management Document states that new visitor accommodation will be focused within the Southend Central Area, London Southend Airport area and at locations with good access and a clear and strong relationship with the Seafront. It also states that proposals must relate well to strategic routes, have good public transport accessibility and meet the requirements of other relevant planning policies.
- 6.3 The site is not located within the Seafront area as identified on the Policies Map of the Development Management Document. It is also not located within the Southend Central or London Southend Airport areas and does not have a clear and strong relationship with the Seafront. It is therefore not reasonably located for the purposes of providing visitor accommodation within the principles set out in Policy DM12.
- 6.4 A recent appeal case within the City is relevant here in so far as it demonstrates a comparable development that was found to cause harm and failed to comply with relevant planning policies and guidance. The application, reference 21/00361/FUL and appeal reference 21/00089/REFN, was refused planning permission and dismissed at appeal. The Inspector concluded that as the application dwelling in Ambleside Drive (0.5m away from the application site and closer to the Seafront than the application site) is located outside of the key designated areas and that policy requires new accommodation to be focused within these areas, it was not possible to find that the property had the good access and strong relationship with the Seafront as required by Policy DM12. It was found that there was a clear conflict with the development plan, which seeks to direct such uses to appropriate locations in support of strategic objectives.
- 6.5 The proposal reduces the availability of a single family dwellinghouse in the City through the change of use to short term lets. The principle of the use of the dwelling as visitor accommodation at this location is not acceptable. The demand for housing in Southend

is high and all the more acute because of the limited land resources in the City. Increased Government targets have also put greater strain on these resources and attention is drawn to the fact that Southend-on-Sea City Council cannot demonstrate a five-year supply of deliverable housing sites. In order to meet this significant housing need, the Council requires a focused approach to housing provision across the City. The Core Strategy seeks to do this by securing and upgrading the existing housing stock as well as new development opportunities and this is covered by Policy CP8 which resists the loss of the existing dwellings without significant justification and public benefits. It promotes the loss of housing in favour of short-term provision where there is a clear and great strategic need for housing which the Council is unable to meet currently and this is not a suitable location for short term and visitor accommodation.

- 6.6 Therefore, it is considered that the proposal harms the provision of dwellings in the City and is unacceptable in principle.

Design and Impact on the Character of the Area

- 6.7 Local and national planning policies and guidance seek to ensure that new development is well designed. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.8 Paragraph 124 of the NPPF states that "Good design is a key aspect of sustainable development and creates better places in which to live and work and helps make development acceptable to communities".
- 6.9 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 6.10 According to Policy KP2 of Core Strategy, new development should "respect the character and scale of the existing neighbourhood where appropriate". Policy CP4 of the Core Strategy requires that development proposals should "maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development".
- 6.11 In design and character terms the use of the property for visitor accommodation is considered to be reasonably consistent with a residential setting. It is not considered that the development subject of this specific application significantly harms the physical character and appearance of the area.
- 6.12 The development subject of this application is therefore considered to be acceptable and policy compliant in the above regards.

Amenity Impacts

- 6.13 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.

- 6.14 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that "protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight".
- 6.15 Use of the application dwelling as visitor accommodation has altered the activity profile at the site due to the frequent changeover of guests and occupancy arrangements within the building compared with residential occupiers of a conventional dwelling. It is considered that the change of use subject of this application has materially altered the patterns of activity on site relating to the number of arrivals and departures and associated transport movements compared to that which would reasonably be associated with this building in use by a single household for conventional Class C3 residential purposes.
- 6.16 In forming the above conclusion due weight has been given to the nature and extent of third-party representations which are consistent in how they explain the negative impacts that operation of this short term let is having on their residential amenity. It is considered that these representations reasonably evidence that there has been a significant impact from the change of use in relation to noise and disturbance, particularly late at night, together with general antisocial behaviour. Some of the issues raised fall outside the scope of planning control i.e., they are civil and police issues and corroborate with information from the Council's Community Safety team. However, unlike other multiply-occupied Class C uses such as small houses in occupation, it is reasonable to draw the conclusion here, on the balance of probability, that the transient nature of people occupying this building for what is typically visitors' leisure related purposes creates occupier activity which is, and is likely to, lead to disproportionate types, levels and times of disturbance for neighbouring and nearby residents compared with that which would reasonably be associated with a conventionally-used dwelling in this residential setting.
- 6.17 Based on the application content, the applicant has not demonstrated that these matters have been considered or that they can be reasonably mitigated and, in these circumstances, it has not been possible to identify conditions that can be used to reasonably and satisfactorily address the range and nature of adverse amenity issues identified. As such, it has not been demonstrated that the change of use to a short term let would not continue to cause material harm to the living conditions and amenity of neighbouring occupiers.
- 6.18 The development is therefore unacceptable and contrary to policy in the above regards.

Traffic and Transportation Issues

- 6.19 Policy CP3 of the Core Strategy seeks to improve highway safety and accessibility. Policy DM15 of the Development Management Document (2015) states "All development should meet the parking standards (including cycle parking) set out in Appendix 6". The adopted Vehicle Parking Standards state that a maximum of two spaces should be provided per dwelling in this location.
- 6.20 The site does not provide any off-street parking. No changes are proposed to the existing established arrangement regarding parking and guests would need to rely on on-street parking or use nearby car parks. The Council does not have any Vehicle Parking Standards in respect of the use as short term lets. Just for comparison a maximum standard of 1 off street parking space per bedroom applies to hotel (Class C1) accommodation. Using that as a reasonable guide there would be no material

worsening of parking provision associated with the development.

- 6.21 The site is in a reasonably sustainable location given its relative proximity to transport options such as Southend East station some 10min walk away and facilities available on London Road at the end of the road (south). Although sustainably located, the surrounding area is subject to a degree of parking stress. Concerns have also been raised through the consultation process with regard to improper parking, for example crossing the footpath with vehicles, and parking in front of neighbours' accesses, which are noted. Such matters are outside the scope of planning control and fall under the Council's separate Highways powers or are matters for the Police. In planning terms, the site is located within a sustainable location and the highways and parking impacts are considered to be policy compliant.

Other Matters

- 6.22 The development is not liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended).

RAMS

- 6.23 The site falls within the Zone of Influence for one or more European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). Any new residential development has the potential to cause disturbance to European designated sites and therefore development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017.
- 6.24 As the proposal does not result in any additional uplift in the number of dwellings at the site, the RAMS payment is not applicable in this instance.

Equality and Diversity Issues

- 6.25 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

Conclusion

- 6.26 For the reasons outlined above the development subject of this application is found to be unacceptable and fails to comply with the relevant planning policies and guidance. As there are no other material planning considerations which would justify reaching a different conclusion it is recommended that planning permission is refused.

7 Recommendation

REFUSE PLANNING PERMISSION for the following reasons:

- 01 The development is not appropriately located for the purposes of providing visitor accommodation and the use of the property for visitor accommodation and as a

short term let reduces the provision of valuable residential resources, to the detriment of the quantity and quality of the City's housing stock against the background of an un-met strategic housing need. The application is therefore found to be unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, CP4 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM12 of the Southend-on-Sea Development Management Document (2015).

- 02 It has not been satisfactorily demonstrated that the development would not result in a loss of amenity for neighbouring occupiers through noise and disturbance associated with the types, levels and times of activity undertaken by the premises' occupiers nor that such impacts could reasonably be overcome through conditions. The development has a materially harmful effect on the living conditions of neighbours in this respect. This is unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

POSITIVE AND PROACTIVE STATEMENT

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action via the pre-application service available at <https://www.southend.gov.uk/info/200155/make-a-planning-application-and-planning-advice/365/planning-advice-and-guidance/2>

INFORMATIVE

- 1 You are advised that as the development equates to less than 100sqm of new floorspace the development benefits from a Minor Development Exemption under the Community Infrastructure Levy Regulations 2010 (as amended) and as such no charge is payable. See www.southend.gov.uk/cil for further details about the Levy.
- 2 The applicant is reminded that the existing use of the building for short term lets is unauthorised. Failure to regularise that position, including by ceasing the unauthorised use, is likely to result in the Council finding it necessary and expedient to take planning enforcement action to seek to remedy the identified harm.

Case Officer Signature..... KE.....Date 30.10.2022

Senior Officer Signature.....CG.....Date 01.11.2023

Delegated Authority Signature.....Date [Click here to enter a date.](#)



Appeal Decision

Site visit made on 16 April 2024

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/D1590/W/23/3333854

49 Christchurch Road, Southend-on-Sea SS2 4JW

- 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 and Mrs K Turner against the decision of Southend-on-Sea City Council.
- The application Ref is 23/01441/FUL.
- The development proposed is change of use from dwellinghouse (Class C3) to short-term let rental unit (Suī Generis).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice since this describes the proposal in detail.
3. The change of use has already taken place and I note that the application had been submitted retrospectively. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - whether the appeal site is within a suitable location for visitor accommodation with particular regard to the Council's spatial strategy and housing stock; and,
 - the effect of the appeal proposal on the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Location of visitor accommodation and effect upon housing stock

5. The appeal proposal is for the use of a two-storey terraced dwelling as short-term visitor accommodation. The property contains two reception rooms, a kitchen, cloakroom and utility area at ground floor, along with a substantial rear garden. At first floor there are 4 bedrooms, a main bathroom and one ensuite. It is located within a street of similar terraced residential properties, comprising single dwellings or flat conversions. The surrounding area is largely residential and is outside the city centre.
6. Policy DM12 of the Southend-on-Sea Development Management Document 2015 (DMD) concerns visitor accommodation. It states that new visitor

accommodation will be focused within the Southend Central Area, London Southend Airport area and at locations with good access and a clear and strong relationship with the Seafront. The supporting text to Policy DM12 confirms that the seafront is not a defined area, but proposals will be considered on a site-by-site basis, taking account of connectivity, including whether there are clear, convenient and direct walking routes to the seafront.

7. From the appeal site, it took me 17 minutes to walk to the seafront following the route given as an example in the appellants' evidence. The seafront is clearly within walking distance, but given that it is almost a mile away and in an otherwise residential area, I do not accept that it has a clear and direct relationship with the seafront. The location is otherwise well connected, with several bus routes serving Southchurch Road, though they go through the city centre, rather than serving the seafront. Although good access is one of the requirements of Policy DM12 for new visitor accommodation, I am not persuaded that this is sufficient to overcome the requirement of the policy that the location in question should have a clear and strong relationship with the seafront.
8. Policy CP8 of the Southend-on-Sea Core Strategy 2007 (Core Strategy) concerns dwelling provision. It seeks to resist the loss of existing residential resources, having regard to the need to safeguard an adequate stock of single-family dwellings. Although the policy pre-dates the National Planning Policy Framework (the Framework) and refers to out of date housing delivery numbers, the aims of the policy about meeting the housing needs of the local community, is consistent with the approach of the Framework.
9. The Council's July 2023 figures on housing delivery confirm a 4.18 year supply of deliverable housing sites. Whilst the appellants maintain there is an adequate supply of family housing in the area, there is no substantive evidence provided which clearly contradicts the Council's position. The use of the property as a short-term let prevents it from being available for use as permanent housing. In the context of the shortfall in supply, and the Council's stated constraints on land supply within the City, the loss of a single dwelling is materially harmful to the supply of housing. Whilst I appreciate the appellants' point that the loss is of a very small scale, such incremental losses to the housing stock can cumulatively add up to be significant.
10. Due to the conflict with Policy DM12 of the DMD, and for the reasons given above, I conclude that the appeal property is not in a suitable location for visitor accommodation. The appeal site's use as visitor accommodation would also conflict with Core Strategy Policy CP8 which, amongst other things, aims to resist the loss of residential resources and maintain an adequate stock of family dwellings. It also conflicts with the aim of the Framework to boost the supply of housing, given the shortfall in deliverable housing sites within the city.
11. The Council also references Policies KP2 and CP4 of the Core Strategy in their reason for refusal. These policies are strategic in nature, setting out a range of principles to guide sustainable development and design; they are not directly determinative in relation to this issue.

Living conditions of neighbouring occupiers

12. I recognise that even if the house was in use as permanent residential accommodation, it could be occupied by a large family, or equally by one person. The nature of visitor accommodation is also such that the occupancy can vary, along with how groups of people may choose to use the property. In this case, the house can accommodate at least 8 people in the 4 bedrooms, and more if a sofa bed was used in the ground floor reception room. Many of the interested parties make reference to the property being advertised with an 11-person capacity.
13. The frequent change overs, pattern of movement and timing of people entering and leaving the house, along with associated vehicle movements, have the potential to cause significant disturbance to neighbours, particularly if a large group is staying. This is particularly so in the context of a densely developed area with neighbouring residential windows and gardens in close proximity. I have had regard to the comments of interested parties and the appellants' statement regarding the occupier prior to the house being converted to short term let accommodation. The comments of interested parties clearly reference the occupants of the holiday accommodation as well as the previous tenant.
14. The appellants state that the property is managed by a specialist lettings agency with a manager who can be contacted at any time, and there are rules that guests are expected to abide by. Whilst I appreciate that this offers a means of addressing issues of an anti-social nature that arise as a result of the holiday let, it would be incumbent on neighbouring occupiers to pursue any issues with the manager. It would not necessarily be a means of preventing those issues arising and it would not address the day-to-day intensity of use potentially resulting from the use of the property by large groups.
15. I conclude that the appeal proposal would cause unacceptable harm to the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore be contrary to Core Strategy Policy CP4 and Policy DM1 of the DMD. Amongst other matters, these policies seek to ensure that development protects the amenities of immediate neighbours and the surrounding area.
16. The Council also references Core Strategy Policy KP2 and DMD Policy DM3 in their reason for refusal. Policy KP2 sets out strategic design principles and DM3 relates to the efficient and effective use of land; I consider neither are determinative on the issue of noise and disturbance.

Planning Balance and Conclusion

17. The use as short term let accommodation contributes to the local economy and tourism. Visitors would use local shops and services and the use provides employment opportunities in the management, maintenance and cleaning of the accommodation. Given the single unit of accommodation, these benefits are at a small scale.
18. However, the appeal site is not suitably located for visitor accommodation, as identified in the development plan. The harm I have identified in terms of the location of the visitor accommodation, the effect upon the City's housing stock, and living conditions of neighbouring occupiers, outweighs the identified benefits.

19. As such the appeal proposal is contrary to the development plan read as a whole. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal should therefore be dismissed.

L. Francis

INSPECTOR