
Appeal Decisions

Site visit made on 17 March 2014

by Isobel McCretton BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 May 2014

Appeal A Ref: APP/X1545/A/13/2202619

74 Maldon Road, Burnham-on-Crouch CM0 8NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Linden Partnership Ltd against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/13/00408, dated 3 May 2013, was refused by notice dated 11 July 2013.
 - The development proposed is demolition of existing dwelling and erection of 11no. 2, 4 and 5 bedroom dwellings, including alterations to access, new driveway, associated parking and amenity space.
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Appeal B Ref: APP/X1545/A/13/2201826

74 Maldon Road, Burnham-on-Crouch CM0 8NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Linden Partnership Ltd against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/12/00715, dated 20 August 2012, was refused by notice dated 15 January 2013.
 - The development proposed is demolition of existing dwelling and erection of 12no. 3, 4 and 5 bed dwellings, including alterations to access, new driveway and associated parking and amenity space.
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Decisions

Appeal A Ref: APP/X1545/A/13/2202619

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of 11no. 2, 4 and 5 bedroom dwellings, including alterations to access, new driveway, associated parking and amenity space at 74 Maldon Road, Burnham-on-Crouch CM0 8NR in accordance with the terms of the application, Ref. FUL/MAL/13/00408, dated 3 May 2013, subject to the conditions set out in the Schedule attached to this decision.

Appeal B Ref: APP/X1545/A/13/2201826

2. The appeal is dismissed

Main Issues

3. The main issues are:

- The effect of the proposed development on the character and appearance of the area (Appeals A and B);
- Whether having regard to the identified local need, an appropriate range of dwelling types would be provided (Appeal B);
- The effect on the living conditions of adjoining residential occupiers in terms of loss of privacy (Appeals A and B);
- Whether adequate private amenity space would be provided to meet the needs of future occupiers (Appeal B); and
- Whether adequate parking provision would be made to serve the needs of the development (Appeal A).

Reasons

4. The appeal site is located within a ribbon of development on the northern side of the B1010 Maldon Road. It comprises a substantial, extended, detached dwelling with an indoor swimming pool complex at the rear. The house is set back around 50m from the road and the site backs onto open farmland. To the west is a detached house set closer to Maldon Road, and to the west are detached houses in Meadow Way.
5. The site is within the built-up area of Burnham-on-Crouch as defined in the Local Plan¹, and thus there is no objection in principle to the development of the site for residential purposes. Moreover the Council cannot demonstrate a five year supply of housing land so, in accordance with paragraph 49 of the National Planning Policy Framework (2012) (the Framework), the policies for the delivery of housing embodied in the Local Plan are out of date and the proposals must be considered in the light of the presumption in favour of sustainable development.

Character and Appearance

6. In both appeals the proposal is a development of detached and semi-detached houses (11 in appeal A, 12 in appeal B) built around a cul-de-sac and utilising the existing access from Maldon Road which would be widened. I do not agree with the Council's view that the proposal would not fit with the character of the area. The Council states that the urban grain is loose with large houses located more or less centrally in very large plots with their principal elevation facing Maldon Road and generous front and rear gardens. That may be the case with the properties in the ribbon of development to the west of the appeal site. However to the east a number of houses are closer to the road and there are several examples of cul-de-sac and in-depth development which is more tightly knit and the houses in the area vary considerably in age, size and design.
7. There would be two houses fronting Maldon Road accessed by a driveway from the new access road in a similar manner to the development on the opposite side of the main road at Chandlers. In both cases the new frontage dwellings would be set further forward than no 72 and the first house in Meadow Way, but between 10-15m from Maldon Road. The frontage vegetation would be retained and reinforced with additional planting and the building line along Maldon Road, especially to the east of the site, is not uniform. As such, I do

¹ Maldon District Replacement Local Plan adopted 2005

not consider that these 2 dwellings would appear unduly prominent in the street scene or out of keeping with the character of the area.

8. The Council objects to the fact that the 2 frontage houses in appeal B would not have their main front elevation facing the road. While the majority of houses address Maldon Road, there are some which do not. The proposed houses would have a projecting wing forward of the main front wall but there would be first floor windows facing Maldon Road and, with the retained vegetation and landscaping, it seems to me that they would not appear out of place.
9. The proposed dwellings in each appeal would be 2 storeys in height with single storey garages and, in some cases, 1½-storey links or projections. There would be a number of different house types providing variety throughout the development. A mix of finishes and materials are shown, though full details could be required by condition if permission were granted. There is considerable variation in the design of houses in the area and I consider that the proposed dwellings would not appear uncharacteristic of the area.
10. As for the development as a whole, the density would be just under 25 dwellings per hectare (dph) for appeal B and around 22.5 dph for appeal A. As noted above, there are a number of culs-de-sac in the wider area. Although some such as Meadow Way are less densely developed, the form and layout would be similar to the development at Chandlers immediately opposite which the Council estimates to be around 18.6 dph. Given the layout and the lack of direct views into the site as a result of the curve of the proposed access road and the landscaping, I consider that the difference in density between the proposed developments and the surrounding housing in appeal A would not be readily discernable. In the case of appeal B, however, the slightly higher density would result in less room between facing properties and less landscaping along the access road and in front of the new dwellings. In this case, the new houses would appear cramped and the layout would not reflect the more verdant character of surrounding development.
11. The Council criticises the layout of the developments for not providing more of a connection to the local area. However, the site backs onto farmland and there does not appear to be any way through to other parts of the built-up area through Meadow Way. The Council has suggested that an additional pedestrian access could have been provided onto Maldon Road, but given the size of the development and the width of the site I am not convinced that this would be of significant benefit.
12. I conclude that while the proposal in appeal B would be detrimental to the character and appearance of the area and would not accord with Local Plan policy BE1 which, among other things, requires development proposal to be compatible with their surroundings, harmonise with the general character of the area, include landscaping as an integral part of the overall design. On the other hand I find that the proposed development in appeal A would not harm the character and appearance of the area and would not conflict with policy BE1.

Housing Mix

13. The appeal B scheme is for 4 x 3-bedroom, 5 x 4-bedroom and 3 x 5-bedroom dwellings. The Council was of the view that this did not reflect local housing

need: the Strategic Housing Market Assessment (SHMA) update in 2009 identified that the District has an unbalanced high number of dwellings with 3 or more bedrooms and that there is a clear need for more 1- and 2-bedroom dwellings. Paragraph 50 of the Framework sets out that local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community, identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.

14. The appeal A layout shows 2 x 2-bedroom, 7 x 4-bedroom and 2 x 5-bedroom units. Although 2 small units are to be provided this still does not properly reflect the housing mix for which there is the greatest identified need. Nonetheless, as the Officers' report points out, a development of predominantly small dwellings may not reflect the prevailing character of the area. Moreover, there is no adopted policy which sets out a required housing mix (the SHMA is a report used to formulate future planning policy rather than being a policy document in itself). The Council cannot demonstrate a 5 year supply of housing land so that there is an unmet need for units of all sizes. The proposed developments would represent a windfall site which would contribute to meeting the shortfall. Both schemes would provide a range of house sizes and thus are, in my opinion, acceptable in terms of housing mix.

Living Conditions

15. One of the reasons for refusal of the scheme in appeal B is that there would be unacceptable overlooking from the first floor windows of plots 3, 4 & 5 towards the houses and gardens of nos. 1 & 2 Meadow Way. This matter is addressed by the appeal B proposal with the dwellings moved further from the boundary rear and slightly repositioned to reduce direct overlooking of the main private amenity areas.. I agree that the layout in scheme B would result in undue loss of privacy for the occupiers of the adjoining houses but that the amended proposal in appeal A broadly accords with the requirements of the Essex Design Guide and Local Plan policy BE1 in this regard.

Amenity Space

16. The amenity space for plots 3 and 4 shown on the layout submitted for Appeal B would be below the standard required By the Essex Design Guide. A minimum of 100m² is required, whereas the drawings show around 76m² and 82m² respectively. The Council contends this is symptomatic of the density and cramped layout and does not reflect the larger gardens which are characteristic of the area. The appellants submitted a drawing with the appeal (755/PL/105E) which showed minor adjustments to the layout so that private amenity space for all the houses would accord with the adopted standard. This drawing was not considered by the Council in its determination of the appeal, but I am satisfied that, with those minor changes, which would not prejudice any interests, satisfactory amenity space could be provided to meet the needs of future occupiers so that the development would accord with Local Plan policy BE1. Were planning permission to be granted for this scheme, a condition could be imposed requiring developed in accordance with the amended drawing.

Parking Provision

17. The Council maintains that the parking provision for appeal A is inadequate as no visitors' spaces are included. This was not a reason for refusal in appeal B which proposed an additional house. In appeal A provision is made for 2 spaces per 2-bedroom house and 3 spaces per each 4- and 5-bedroom house and, in appeal B, 2 spaces per 3-bedroom house and 3 spaces per each 4- and 5-bedroom house. This accords with the Council's adopted standards where parking is provided on each plot rather than in a communal parking area.

Conditions

18. I have considered the need for conditions for appeal A in the light of those suggested by the Council and the advice in the practice guidance. I have slightly amended the wording of some of the conditions to be more precise.
19. For the avoidance of doubt and in the interests of proper planning it is necessary to require that the development is carried out in accordance with the submitted drawings.
20. In the interests of the appearance of the development, I shall impose conditions requiring the approval of details of external materials, hard and soft landscaping, boundary walls and fences, and to require the development to be carried out in accordance with the submitted Arboricultural Impact Assessment and Method Statement.
21. To protect the visual amenity of the area and the living conditions of adjoining residents I shall impose a condition requiring approval of finished ground and floor levels. I shall also restrict the insertion of additional windows at or above first floor level without prior permission from the local planning authority.
22. In the interest of highway safety it is necessary to require the approval of further details of the widened access onto Maldon Road (including traffic calming and sight lines), measures to prevent the discharge of surface water from the development onto the highway, to restrict the erection of gates across the access, and to require that the access road is constructed up to at least road base level to serve any dwelling before it is occupied.
23. To ensure appropriate protection for protected species and to encourage biodiversity, it is necessary and reasonable to require a survey of the roof of the existing house prior to demolition to make certain that it has not been colonised by bats since the last survey was carried out, and to require the submission of a biodiversity enhancement plan.
24. It is also necessary to require the approval of details of a surface water drainage strategy to prevent environmental and amenity problems arising from flooding.
25. The Council has suggested a condition requiring the developer to be responsible for the provision, prior to occupation of the dwellings, of a residential travel information pack for sustainable transport. This is to be approved by Essex County Council and include six one day travel vouchers for use with the relevant local public transport operator. I do not consider that it is proper to impose a condition requiring approval of details by an authority other than the local planning authority, though it would be open to the Council to consult with the appropriate body before approving any details. I also do not

consider that a condition requiring vouchers to be given out accords with the practice guidance. I shall therefore impose a requirement for a travel plan to be submitted, the details of which to be agreed by the Council.

Conclusion

26. For the reasons given above I conclude that Appeal A should be allowed, but that Appeal B should be dismissed because of the adverse impact on the character and appearance of the area and the living conditions of the adjoining occupiers.

Isobel McCretton

INSPECTOR

Schedule of Conditions for Appeal A Ref: APP/X1545/A/13/2202619

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Except as may be required by other conditions below, the development hereby permitted shall be carried out in complete accordance with the submitted detailed specifications and the following approved drawings: 755/PL/100B, 755/PL/101B, 755/PL/102C, 755/PL/103C, 755/PL/104B, 755/PL/105F, 755/PL/106C, 755/PL/107C, 755/PL/108B, 755/PL/109E, 755/PL/110B, 755/PL/111D, 755/PL/112B
3. No development shall take place until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
4. No works or development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted

shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

5. No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the first occupation of the dwelling to which it relates and be retained as such thereafter.
6. Prior to the commencement of the development detailed drawings showing the finished ground and finished floor levels of the development in relation to the levels of the surrounding area shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the scheme as approved.
7. Prior to the commencement of the development the details of the access and footway arrangements shall be submitted to and approved in writing by the Local Planning Authority to include the following:
 - Visibility splays to the east and west with dimensions of 2.4m x 90m clear to ground level (not including the existing tree to the east of the access)
 - A bell-mouth access with minimum 6m radii
 - 2 footways with a minimum width of 1.5m from Maldon Road into the site
 - Appropriate traffic calming of the new road to provide a 20mph zone within the development
 - The provision of two dropped kerb pedestrian crossing points with tactile paving across the new bell-mouth access

The approved scheme of works shall only be implemented in accordance with the details as agreed.

8. Prior to the commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
9. The carriageway of the proposed estate road shall be constructed up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road so that prior to occupation each dwelling has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or bordering the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surfacing within twelve months (or three months in the case of a shared surface road or a mews) from the occupation of such dwelling.

10. No gates or other form of enclosure shall be erected or placed across the access.
 11. Prior to the occupation of any of the dwellings, details of a Travel Plan to encourage travel by means other than the private car shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented in accordance with the approved details on first occupation of the dwellings.
 12. The development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement submitted on the 7 May 2013.
 13. No development shall commence and no works of demolition shall take place until a survey of the roof of the existing dwelling has been undertaken to ensure that bats have not re-colonised the roof. The results of the survey shall be submitted to, and approved in writing by the local planning authority. If bats are found to be present, no demolition work shall take place until an acceptable mitigation scheme has been submitted to and approved in writing by the local planning authority. The mitigation scheme shall only be implemented as agreed.
 14. Prior to the commencement of any development details of a biodiversity enhancement plan for the site shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed.
 15. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order amending, revoking or re-enacting that Order) no additional window, opening or other form of glazed area shall be constructed at or above first floor level in the dwellings hereby permitted without planning permission having been obtained from the local planning authority.
 16. No development shall commence until a surface water drainage strategy has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the surface water drainage strategy approved.
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