



Appeal Decision

Site visit made on 9 November 2016

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 15 December 2016

Appeal Ref: APP/X1545/W/16/3156693

Land South of Ferry Boat Inn, Ferry Road, North Farmbridge, Essex CM3 6LR

- 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 Mr D Adams against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00152, dated 12 February 2016, was refused by notice dated 14 July 2016.
 - The development proposed is redevelopment of the site for business workshops and offices.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site for business workshops and offices at Land South of Ferry Boat Inn, Ferry Road, North Farmbridge, Essex CM3 6LR in accordance with the application Ref FUL/MAL/16/00152, dated 12 February 2016 and subject to the conditions set out in the schedule below.

Procedural Point

2. I have amended the address of the site so that it refers to Ferry Road, as acknowledged in the Council's decision notice and the appellant's statement.

Main Issues

3. The main issues are the effect of the development on i) the living conditions of neighbouring residents with particular regard to noise and disturbance and ii) parking demand and the free flow of traffic in the locality.

Reasons

Living Conditions

4. The area surrounding the appeal site is characterised by a range of land uses. These are a boat yard immediately to the south; the Ferry Boat Inn public house to the north and the residential properties of Kennett's Farm and Colt House to the east and west respectively.
 5. Though the site is within close proximity to the aforementioned residential properties, the proposal would be restricted to the development of light industrial workshops incorporating ancillary offices. This form of development would fall within planning use class B1, as set out in The Town and Country
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Planning (Use Classes) Order 1987, which specifically restricts permissible business uses to those that can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

6. The proposed buildings would be orientated so that the principal points of access to the respective units would face inwards towards the centre of the site. This would ensure that any limited noise emissions from movements into and out of the units would be attenuated by the presence of the buildings themselves. In addition, the scale of the proposed development would comprise a relatively small number of units of limited size. Accordingly the development would not be expected to generate significant coming and goings of vehicles to and from the site. As an additional safeguard it would be possible to impose a condition restricting the operating hours of businesses there.
7. Whilst the development may lead to intensification of activity, the restricted type of business use proposed for the site, in combination with the limited scale of development, would ensure that the business activities taking place there would not result in noise and disturbance to local residents or users of the adjacent public house. In addition the proposal would result in the removal of the existing boat manufacturing and storage related use which would have the potential to cause greater noise and disturbance to nearby residents.
8. I conclude that the development would not result in harm to the living conditions of neighbouring residents with particular regard to noise and disturbance. Accordingly it would not conflict with Policies E7, BE1 and CC6 of the Maldon District Replacement Local Plan 2005 (LP), Policies S1, S8 and D1 of the emerging Maldon District Local Development Plan (LDP) and the National Planning Policy Framework (the Framework) which seek to protect residential amenity and support employment generating proposals that are not harmful to the countryside. In particular the development would accord with Policy E1 of the LDP which states that proposals to modernise and re-develop existing employment sites will be viewed favourably, especially where it would meet the needs of local businesses. Notwithstanding this the policy does not require local need to be demonstrated in order for the favourable disposition to be engaged.

Traffic and Parking

9. The proposal would allow for twelve car parking spaces. Whilst, according to the Council, this would mean a shortfall of provision compared to the maximum standard for light industrial uses, the deficiency would only be four spaces and is therefore relatively small. Notwithstanding this, in terms of the risk of overspill car parking associated with the development, a short section of Ferry Road to the north of the site is single width in form. This would not therefore be an attractive parking location due the obstruction that would be caused to other vehicles and the desire on the part of owners to avoid accident damage to their own vehicles.
10. It is undisputed by the parties that the site is already in use as a boat yard. Accordingly it is possible that if the site remained as such, its use may intensify, resulting in additional traffic movement, without recourse to the local planning authority. In any event, the amount of traffic associated with the relatively small development proposed in this case would not be significant.

Considering that traffic flows along Ferry Road would be limited, given that the highway is not a through road, the proposed development would not be expected to result in any significant disruption to the free flow of traffic. Furthermore, though Ferry Road is narrow in places, there would be a natural tendency for drivers to slow down accordingly and exercise greater care. I therefore consider that the development would not result in unacceptable risk to pedestrian safety.

11. The train station at North Farmbridge is approximately a mile away from the site, which would make it possible to walk from one to the other in around 20 minutes. Although the route would not be universally regarded as safe and convenient at all times, it would at least present a realistic sustainable transport alternative to the car. I therefore give some weight to this consideration in favour of the proposal.
12. I note that the County Council as Highway authority has not objected to the development on traffic related grounds. Drawing the aforementioned considerations together the proposal would be consistent with the Framework which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
13. I conclude that the proposal would not result in excessive parking demand or interrupt the free flow of traffic in the locality to any significant degree. Accordingly it would not conflict with Policies T2 of the LP and H4 of the LDP insofar as they seek to secure adequate car parking provision and safe access to and from the highway.

Other Matters

14. I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the effect of the proposal on the setting of the Ferry Boat Inn which is a Grade II listed building. The separation of this building from the site together with the presence of intervening screen planting is such that the setting of the listed building would not be adversely affected.
15. I have also taken into account that Natural England (NE) concluded the development would be unlikely to have a significant effect on the interest features for which the Crouch and Roach Estuaries Special Protection Area and the Mid Essex Coast Special Area of Conservation have been classified. NE concurred with the view that the type and scale of the proposed development is not considered likely to give rise to any additional impacts except via the increased drainage requirements and the proposal contains appropriate measures to prevent or mitigate any such impacts. I have no reason to disagree with this conclusion.

Conditions

16. I have considered the conditions suggested by the Council. Conditions specifying the plans and requiring details of external materials for the buildings are necessary to safeguard the character and appearance of the area. Conditions to assess the risk of and remediate any contamination present on the site are necessary in the interests of environmental protection. Details of

drainage including maintenance and flood evacuation measures are required in the interests of surface water management and the wellbeing of site workers.

17. Whilst it would be unreasonable to prohibit external illumination of the site, a condition controlling details of this in order to prevent unnecessary light spillage is required in the interests of safeguarding living conditions and potential bat activity. Conditions controlling the use of the site, working and delivery times and the operation of external plant and machinery are required to protect the living conditions of nearby residents. The use condition is also required to control the level of parking demand. Conditions requiring the provision and retention of vehicle parking and turning areas are required in the interests of highway safety.
18. I have made alterations to the wording of some of the suggested conditions for clarification, avoidance of duplication and to ensure they meet the tests for conditions as specified in Planning Practice Guidance. The conditions concerning external materials and flood, drainage and contamination management are all specified as pre-commencement conditions as they are considered fundamental to the development permitted.
19. I shall not impose a condition requiring details of the ventilation of the buildings, as the proposed business use of the premises means that this would be unnecessary. Similarly, a condition specifying minimum parking space dimensions is not necessary given that the spaces are set out on the approved drawing.

Conclusion

20. For the above reasons and having regard to all other matters raised, the appeal should be allowed.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be commenced within three years from the date of this permission.
- 2) The development to which the permission relates shall be carried out in accordance with the following approved plans and specifications:
15.3044/M002 Rev: A; 15.3044/E101 Rev: A; 15.3044/P201 Rev: B;
15.3044/P202 Rev: B; 15.3044/P204 Rev: A; 15.3044/P205 Rev:A;
15.3044/ P206 Rev:A.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 4) No development shall commence, other than that required to carry out additional necessary investigation including demolition, site clearance, removal of underground tanks and construction until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland; service lines and pipes; adjoining land; ground waters and surface waters; ecological systems and archaeological sites and ancient monuments.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is brought into use.
- 6) No development work shall commence until details of a drainage strategy based on the principles of a sustainable urban drainage system (SUDS) have been submitted to and approved in writing by the local planning authority. The SUDS shall include information about flow routes off site and, provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The development shall be carried out in accordance with the approved details prior to the first occupation of the development and retained as such thereafter.
- 7) Prior to the commencement of development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

- 8) Prior to the first unit being brought into use, details of any scheme for the external illumination of the site shall be submitted to and agreed in writing by the local planning authority. The details shall be implemented in accordance with the approved scheme and thereafter retained.
- 9) Deliveries to and collections from the site shall only be undertaken between 08:00 hours and 18:00 hours on weekdays; between 08:00 hours and 13:00 hours on Saturdays and not at any time on Sundays and public holidays.
- 10) With the exception of the use of the site for office related work, the use hereby permitted shall only be undertaken between 08:00 hours and 18:00 hours.
- 11) No externally sited plant or machinery shall be used unless and until details of the equipment have been submitted to and approved in writing by the local planning authority. Any measures required by the local planning authority to reduce noise from the plant or machinery shall be completed prior to it being brought into use and shall be retained as such thereafter.
- 12) No part of the development shall be occupied until vehicle parking and turning space has been provided, surfaced and marked out in accordance with the approved drawings. The space approved shall be kept available for parking and turning in association with the development.
- 13) Prior to first use of each respective workshop unit, weatherproof signs shall be displayed within those units, which comprehensively describe the site evacuation procedures in the event of a flood. The signage shall thereafter be retained.
- 14) No development shall commence until a completed Flood Evacuation Management Plan (FEMP) shall have been submitted to and approved in writing by the local planning authority. The approved FEMP shall be implemented in conjunction with the development.
- 15) The premises shall not be used for any purpose other than light industrial workshop purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).