
Appeal Decision

Site visit made on 26 January 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 07 March 2017

Appeal Ref: APP/X1545/W/16/3163155

Land between 4 Oaktrees and Lee Cottages, The Street, Little Totham, Essex, CM9 8JQ

- 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 J Purdy against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00296, dated 17 March 2016, was refused by notice dated 16 May 2016.
 - The development proposed is three bed dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The Council has prepared its new Local Development Plan (LDP) which is intended to replace the Maldon District Replacement Local Plan 2005 (RLP), the plan remains one that has not been examined and found sound. For this reason I am unable to accord any significant weight to the policies of the LDP.
3. The site was the subject of a previous application¹ that was subsequently dismissed at appeal² and this is a material consideration in assessment of the current proposal. Nonetheless, I note the differences between the two schemes, in particular that the previous scheme was an outline with all matters reserved, and I have taken this into account. In particular I have considered the individual circumstances of this current proposal in the light of current national policy and guidance.
4. The main issues are the effect of the proposal on (a) the living conditions of the occupiers of existing dwelling with particular regard to outlook; (b) the character and appearance of the area; and (c).highway safety

Reasons

Living conditions

5. The new dwelling would have a common boundary with the dwellings Lee Cottages. Due to the orientation of these dwellings their garden areas would be adjacent to the shared boundary. The garden areas are not deep. In addition the rear elevations of the dwellings would also face the appeal site.

¹ LPA ref OUT/MAL/14/00929

² APP/X1545/W/15/3130608

6. The flank wall of the new dwelling would face Lee Cottages. I understand that No 1 has benefitted from a number of extensions and additions. Nevertheless, the plans indicate that it would be about 12 metres in depth (two and single storey). The two storey element would have a height of about 8 metres. The current boundary treatment is low and I note that the appellant suggests that further planting could be used to reinforce the boundary. Nevertheless, a large proportion of the wall of the dwelling would be visible from the home and gardens of Lee Cottages. Consequently the outlook from Lee Cottages would be obstructed by an imposing building of significant depth and height. The effect would be overbearing. It would result in substantial harm to outlook.
7. I therefore conclude that the proposal would have a harmful effect on the living condition on the occupiers of existing dwellings Lee Cottages. It would be in conflict with RLP policy BE1 and LDP policy D1 in so far as they require new development to have an acceptable effect on the amenity of the occupiers of neighbouring properties. It would also be in conflict with the National Planning Policy Framework (the Framework) which seeks to ensure a good standard of amenity for all existing occupiers of land and buildings.

Character and appearance

8. The new dwelling would be positioned within the site with space to the front and rear. It would also be set away from the boundaries by varying amounts. The site is located between the semi-detached dwellings in Oaktrees and Lee Cottages. The area is characterised by a mix of dwellings with varying designs and ages forming a generally continuous frontage along The Street with off street parking and access points. I agree with the comments of my colleague in the previous appeal that the infilling of this gap within what is essentially a built up frontage would not fundamentally alter the character of the area to any significant extent.
9. I therefore conclude that the proposal would not harm the character and appearance of the area. In this regard it would not conflict with policies BE1 and CC6 of the RLP and emerging policy DA1 of the LDP in so far as they require new development to be compatible with its surroundings and the general character of the area in which it is set.

Highway safety

10. The scheme would utilise the existing access point to the field from The Street. The layout would include a turning area to allow vehicles to enter and exit in a forward gear. The grounds of appeal identify that in the location of the appeal site the speed limit is 30mph. The highway authority consultation response indicates that the required visibility could not be achieved to the south. There is no indication of what this should be. The appellant submits that the norm would be 2.4m x 70m.
11. In this case the appellants suggest that to the north 2.4m x 90m could be achieved to the north and to the south 2.4m x 60m. I appreciate that there is no dispute regarding the north. The appellants have provided a plan within the appeal submissions which shows that visibility splays can be provided of 2.4m X 60m to the south and 2.4m x 90m to the north.
12. Taken this into account and the fact that vehicles could enter and exit the site in a forward gear I therefore conclude that the provision of a new dwelling

would not have a harmful effect on highway safety. It would not be in conflict with RLP policy T2 and emerging LDP policy T2 which amongst other things seek to ensure safe and accessible developments and the Framework which seeks to resist proposals where the residual cumulative impacts of development are severe.

Conclusion

13. The scheme would not harm the character and appearance of the area or highway safety. I also note that there would not be loss of daylight or sunlight for existing occupiers. However, I have found that there would be substantial harm to outlook and the living conditions of the occupiers of existing dwellings at Lee Cottages and clear conflict with the development plan in this regard.
14. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR