

Appeal Decision

Site visit made on 17 September 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector, appointed by the Secretary of State

Decision date: 17 October 2019

Appeal Ref: APP/X1545/W/19/3230624

1A Alamein Road, Burnham-on-Crouch CM0 8JH

- 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 Richard Summers against the decision of Maldon District Council.
 - The application Ref FUL/MAL/19/00278, dated 4 March 2019, was refused by notice dated 22 May 2019.
 - The development proposed is the erection of a dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwellinghouse at 1A Alamein Road, Burnham-on-Crouch, CM0 8JH, in accordance with the terms of the application, Ref FUL/MAL/19/00278, dated 4 March 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 137/EX/01/A and 137/EX/02/A.
 - 2) The area of hardstanding to the rear of the garden, highlighted in red on drawing No. 137/EX/04/A, shall only be used for the parking of cars and for no other use.

Application for costs

2. An application for costs was made by Mr Richard Summers against Maldon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The development has already been carried out and appeared to be substantially complete at the time of my site visit. As such, the appeal before me seeks retrospective consent. The Council considered the appeal under section 73A of the Town and Country Planning Act 1990 (as amended) and, accordingly, I shall consider it on the same basis.
4. The appeal site has been the subject of enforcement action and an enforcement notice, reference ENF/14/00100/01 remains in force, which requires the landowner to remove the dwelling house from the land or build the dwelling house in accordance with the approved plans of permission 09/00828/FUL as amended by permission 11/00693/NMA.
5. I have taken the description from the decision notice, since the original description on the application form did not make clear the development that

was proposed. I have removed words which are not acts of development from the description.

Main Issues

6. The main issues of the appeal are the effect of the proposal on:

- The character and appearance of the area; and
- Whether the proposed development would provide satisfactory living conditions for its occupants, with particular regard to outdoor amenity space; and
- Highway safety.

Reasons

Background

7. As set out above, the appeal site has been the subject of enforcement action and there is an enforcement notice which remains in force. The Inspector considered Appeal A¹ and Appeal B². Appeal A is most pertinent to my consideration of this appeal. In respect of Appeal A, the breach of planning control, as alleged in the notice, was 'Without planning permission the erection of a detached dwelling house on the land including the erection of a raised concrete platform, higher than 0.3 metres, with associated walls and steps.' The appeal proceeded on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act (TCPA)1990 (as amended).
8. The extent of the variation between the approved plans and the dwelling as built is a matter which remains in dispute between the appellant and the Council. Nevertheless, the appellant accepts that the dwelling as built is different to the previously approved plans.

Character and Appearance

9. The appeal site is located in a prominent position on the corner of Alamein Road, in a generally residential area. Dwelling type and style vary in the area, though properties along this section of Alamein Road are typically two storey terraced and semi-detached dwellings with similar ridge height. Dwelling design along Western Road and Orchard Road is more eclectic, with a mix of dwelling styles, with both single storey and two-storey dwellings represented in the wider area.
10. The appeal property comprises a substantial detached dwelling, with a similar setback from the highway to No 1 Alamein Road. The dwelling has a front gable section which faces Alamein Road and a side gable section which faces towards Western Road. The eaves of the dwelling are broadly in line with the eaves of No 1 Alamein Road, with a slightly higher ridge height. The ground floor of the dwelling is located above the highway and is accessed via a series of steps. The front garden of the dwelling is bound by a rendered wall and there is limited space between the dwelling and the adjacent footpath.

¹ Reference APP/X1545/C/15/3136077

² Reference APP/X1545/C/15/3139006

11. Policy S1 of the Maldon District Local Development Plan (LDP) 2014-2029³ seeks to emphasise the importance of high-quality design in all developments. Policy H4 of the LDP seeks to encourage the effective use of land, having regard to the existing character and density of the surrounding area, amongst other things. Although The dwelling follows a similar building line to No 1 Alamein Road and the front elevation is similarly designed with a gable fronted section facing onto Alamein Road.
12. The plans approved under 09/00828/FUL⁴ show the dwelling adjacent to No 1 Alamein Road. Whether or not the as built ground levels of the site are different to the original, the ridge height of the approved dwelling, by comparison to No 1 Alamein Road, as shown on the approved plans would not be significantly different to that which has been built. Accordingly, the effect of the 'as built' dwelling would not be materially different in terms of its effect on the character and appearance of the area.
13. Although the appeal site has steps leading up to the dwelling, such features are not uncommon along Alamein Road. Whilst the number of steps leading to other properties along Alamein Road is generally less, the steps to the appeal dwelling are not a dominant feature in the street scene and so do not diminish the character and appearance of the area.
14. I saw that parking to the rear of dwellings is not a common feature of the area. Nevertheless, the driveway is adjacent to the driveway of No 60 Western Road and does not diminish the character and appearance of the area as a consequence.
15. Policy D1 seeks to ensure that development respect and enhances the character and local context and makes a positive contribution in terms of height, size, scale, form, massing and proportion, amongst other things. Since the dwelling respects the design, height, scale and form of other dwellings along Alamein Road, in particular No 1, there would be no harm to the character and appearance of the area and no conflict with Policies D1, H4 and S1 of the LDP in this regard, the requirements of which are set out above.

Amenity Space

16. Amenity space is located to the rear, side and front of the dwelling. Policy D1 of the LDP seeks to ensure that development provides sufficient and useable private amenity spaces, amongst other things. Maldon District Design Guide Supplementary Planning Document (DDSPD)(2017) seeks to secure an adequate amount of amenity space for new dwellings. Houses which are 3+ bedrooms are identified as requiring 100m² per unit, however, it does not specify that this must be private amenity space.
17. There is in excess of 100m² outdoor amenity space, in accordance with the DDSPD, which is set out across the front, side and rear of the dwelling. Although some of the amenity space is provided to the front of the dwelling, the majority is provided to the rear. This ensures that occupants of the dwelling have sufficient space for activities such as drying washing, gardening and play space for children. Since sufficient amenity space is available, there would be no harm to living conditions as a result.

³ Adopted July 2017

⁴ as amended by permission 11/00693/NMA

18. Thus, whilst not all of the amenity space is private, there would be adequate amenity space for existing and future occupants of the dwelling and, there would be no conflict with Policy D1 of the LDP, the requirements of which are set out above.

Parking provision

19. Policy T2 of the LDP states that development should provide sufficient parking facilities, having regard to the Council's adopted parking standards. The Maldon District Vehicle Parking Standards Supplementary Planning Document (VPSSPD)(November 2018) sets out a parking requirement for 4+ bed houses of 3 spaces. A number of properties in the area have off-street parking which would not enable vehicles to enter and exit in a forwards gear. I saw no evidence that parking controls are in place in the vicinity of the site.
20. The driveway could theoretically accommodate two cars. However, due to the limited length of the driveway, it is unlikely that occupants of the dwelling would choose to park two cars on the driveway as drivers of vehicles are likely to want to leave a reasonable space between boundary features and other cars. The appeal scheme would therefore not fully comply with the VPSSPD in this respect.
21. I acknowledge that this could lead to occupants of the dwelling utilising on-street parking. However, demand for on street parking in the area was modest during my site visit, which I carried out approximately 2pm. Whilst this represents a snapshot in time, given that many of the surrounding properties have access to off-road parking, I am not persuaded on the evidence before me that on-street parking demand in the area is so significant as to pose a harm to highway safety.
22. Furthermore, the appeal scheme would be likely to result in a modest increase in on-street parking, particularly as the dwelling is located in an area which I saw is served by a range of facilities, including public transport, which would enable occupants of the dwelling to use modes of transport other than the private car.
23. Paragraph 109 of the National Planning Policy Framework (the 'Framework')(2019) states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. Concern has been raised by interested parties regarding the effect of the parking provision on highway safety, however, significantly, the Highway Authority has not objected to the appeal scheme. From my inspection of the site, given the residential nature of the area and the curvature of the road, I consider that vehicle speeds are likely to be low. As a result, I consider that there would not be an unacceptable impact on highway safety.
24. I acknowledge that the appeal scheme would not comply with the VPSSPD and that, as such, there would be conflict with Policy T2, there would be no significant harm arising from this conflict. As such, there would be no harm to highway safety arising from the appeal scheme and no conflict with the Framework in this regard.

Other Matters

25. The Council has provided me with an Appropriate Assessment which considers the effect of the proposal on the Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar site, Dengie SPA and Ramsar site, Crouch and Roach Estuaries SPA and Ramsar site. The appeal scheme would result in a net increase of residential dwellings within the zone of influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The Council concluded that the project will not have a likely significant effect on the sensitive interest features of the European designated sites due to the scale and location of the development. Given the scale of the development and the fallback position, I agree that the proposal would not have an adverse effect on the European designated sites.
26. Concern has been raised that the appeal scheme may lead to non-compliance with regulations at other sites. However, I have no substantive evidence to suggest that allowing this appeal would lead to non-compliance elsewhere. Furthermore, I have considered the appeal on its own merits.
27. I am not persuaded on the evidence before me that the appeal scheme would have a negative effect on property prices in the area, particularly since I have found that there would be no significant harm arising from the appeal scheme.
28. Concern has been raised regarding the effect of the construction period on nearby residents and the means of construction of the building and ancillary structures and whether they are compliant with building regulations. However, these matters are beyond the scope of the appeal before me. Concern has also been raised regarding the effect of the proposal on sewerage, drainage and flooding and that there is no disabled access to the property. However, neither the Environmental Health Officer, nor Essex & Suffolk Water has objected to the proposal. Given the location and scale and location of the appeal scheme, I see no reason why such matters could not be addressed. Furthermore, it would be open to the Council to take action under other powers.
29. The appeal site is outside the Burnham on Crouch Conservation Area (BCCA). The Council has not raised concern regarding the effect of the proposal on the BCCA and, following my inspection of the site, I am satisfied that there would be no substantive harm to the BCCA arising from the appeal scheme since the dwelling would respect the character and appearance of other dwellings along Alamein Road.

Conditions

30. I have considered the conditions put forward by the Council and other parties against advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for consistency, clarity and omitted others. In the interests of certainty and proper planning I have included a condition relating to plans. Since the plans specify the materials which are to be used in the construction of the building, I consider it unnecessary to include a separate condition requiring compliance with materials. I agree that it is necessary to ensure that the driveway is retained for parking, in the interests of highway safety.
31. The Council has suggested the inclusion of a condition to remove rights, as permitted by the Town and Country Planning (General Permitted

Development)(England)Order 2015 (as amended). The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am not persuaded on the evidence before me that it is necessary to restrict permitted development rights since such rights would already be reasonably controlled by conditions set out in the aforementioned Order.

Conclusion

32. For the reasons given above, and having regard to all matters raised, the appeal is allowed subject to the conditions set out above.

M Savage

INSPECTOR