



Appeal Decision

Site visit made on 12 January 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2021

Appeal Ref: APP/X1545/W/19/3241479

Land adjacent Riptide, Maldon Road, Latchingdon CM3 6LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Playle against the decision of Maldon District Council.
 - The application Ref 19/05054/DET, dated 2 April 19, sought approval of details pursuant to conditions Nos 3, 4, 5 and 6 of a planning permission Ref FUL/MAL/16/00092, granted on 18 May 2016.
 - The application was refused by notice dated 20 May 2019.
 - The development proposed is erection of detached dwelling with associated parking, landscaping and ancillary works.
 - The details for which approval is sought are:
Condition 3: samples of all materials to be used in the construction of the external surfaces of the dwelling; and
Condition 6: details of the surface water drainage scheme to serve the development.
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Decision

1. The appeal is allowed insofar as it relates to Condition 3 and samples of all materials to be used in the construction of the external surfaces of the dwelling submitted pursuant to Condition No 3 attached to planning permission Ref FUL/MAL/16/00092, in accordance with the application Ref: 19/05054/DET dated 2 April 19, are approved.
2. The appeal is dismissed insofar as it relates to Condition 6 attached to planning permission Ref FUL/MAL/16/00092.

Main Issues

3. The main issues are:
 - the effect of the proposed details on the character and appearance of the area; and
 - the effect of the proposed details on flooding.

Reasons

Materials

4. Condition 3 states that no development shall take place until samples of all materials to be used in the construction of the external surfaces of the dwelling 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.

5. The brick and roof tile samples I saw on site reflect the images and details submitted as part of the application. Although no samples were submitted to the Council as required by the condition, the Council nonetheless had sight of these details and stated that the information submitted appeared to be acceptable. In addition, while the Council would not have seen the samples, it did not contest my viewing them on site and determining the appeal on this basis.
6. The dwellings surrounding the appeal site have varied materials including grey roof tiles and red brick similar to the submitted details and the samples I observed at my site visit.
7. As such, the proposed details would be in keeping with the character and appearance of the area. Therefore, it would not conflict with Policy D1 of the Maldon District Approved Local Development Plan 2014 – 2029 Adopted July 2017 (LDP) which requires, among other things that developments respect and enhance the character and local context and make a positive contribution in terms of use of materials.

Surface water drainage

8. Condition 6 states that no development shall commence until details of the surface water drainage scheme to serve the development have been 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.
9. While I note the evidence regarding the necessity of Condition 6, no additional evidence has been submitted as part of the appeal to detail the proposed surface water drainage scheme. The details submitted state that a drainage ditch originally laid across the frontage of the site adjoining the highway. This has since been culverted. It is proposed to connect the surface water drainage to the existing culvert in the same manner as adopted for the host dwelling.
10. While I note the evidence regarding building regulations, the lack of any known drainage issues on the site, and that comments by the Highway Authority, since there is no evidence to demonstrate that surface water could be successfully managed in this way, there is no certainty that the proposal would not result in surface water runoff onto the adjacent highway.
11. Consequently, there has not been a demonstration that the proposal would not result in an increased risk of flooding. Therefore, the proposal would conflict with LDP Policy D2 which seeks, among other things, development that minimises all forms of possible pollution including water and that any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.

Other Matters

12. The issue of the necessity of the conditions has been raised. However, this matter is not before me as the application was not made under Section 73 of Town and Country Planning Act 1990.

Conclusion

13. For the reasons given above, I conclude the appeal should succeed in relation to Condition 3. However, in relation to Condition 6, the appeal should be dismissed.

R Sabu

INSPECTOR