



Appeal Decision

Site Visit made on 7 June 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2021

Appeal Ref: APP/X1545/W/21/3267495

Police Station, West Square, Maldon CM9 5PA

- 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 A Tejpar (Court Langley Ltd) against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/00270, dated 29 February 2020, was refused by notice dated 7 October 2020.
 - The development proposed is to convert a former Police Station into 5 self-contained apartments with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In July 2021 the Government published a revised National Planning Policy Framework (Framework). In the context of the main issue below and the paragraphs referred to by the main parties from the previous National Planning Policy Framework, published in February 2019, I am satisfied that there are no material differences in Government policy that are relevant to this appeal.
3. During the appeal the appellant submitted an executed unilateral undertaking. It relates to European designated habitat sites and the Council has confirmed that it overcomes its second reason for refusal. I deal with this consideration in 'other matters' below.

Main Issue

4. The main issue is whether the proposal would result in the unjustified loss of employment space or a community building.

Reasons

5. The appeal building is located at one end of the High Street, in Maldon town centre. It was formerly used by the previous owner as a police station but under a rationalisation programme it became surplus to requirements and closed in July 2017. Essex Police moved its operations elsewhere so no jobs or services were lost as a result. The building has been vacant since.
6. Although the building has remained empty, for the purposes of planning policy it is an employment space and a community building. Policies E1 and E3 of the Maldon District Local Development Plan 2017 seek to retain employment and community uses or sites. In Policy E1 proposals which cause any loss of existing employment uses must meet one of 3 criteria. The one most relevant

to this appeal includes a requirement to demonstrate that the site has been marketed effectively for a suitable employment (or employment related) use; and, that the continuous use of the site for employment purposes is no longer viable, taking into account its existing potential and long-term market demand for employment use. In Policy E3 the loss of a community service or facility must meet 2 criteria. The use of the building as a police station was no longer viable but, in the second criteria, it must be demonstrated that the site has been marketed effectively to show that there is no viable alternative community use. The supporting text to this policy refers to a range of such potential uses.

7. In November 2017 the Council listed the building as an Asset of Community Value (ACV)¹. This was further to a nomination from a community group who expressed an interest to purchase the building. However, no sale resulted within the requisite protected period for reasons that are unclear. It is also not clear whether or how the ACV status of the building was advertised or communicated to other potentially interested community groups. Even if the ACV process constituted 'marketing' I am not therefore satisfied that it was effective. Moreover, while the previous owner then sought to sell the building on the open market, its alternative future use was subject to planning permission.
8. The building was marketed on behalf of Essex Police during an 18 month period. This was by a variety of usual methods. The few enquiries received for alternative employment or community uses were not discounted. However, the marketing clearly suggested that the site would potentially suit redevelopment to residential use. It was never explicitly marketed to attract an employment or community service or facility use. Furthermore, the marketing effort was most proactive and focussed only over two short periods, each of about 2 months duration. The Council has not provided the evidence that underpins its relevant development plan policies or any current monitoring studies. Nonetheless, there is no compelling substantive or objective market evidence from the appellant about the existing or future potential of the building, or longer term demand, for employment or community use.
9. It appears that no offers to acquire the building for employment or community use were forthcoming. Some of these potential occupiers expressed concern about the internal arrangement of space not meeting modern user requirements. However, it is not clear if the configuration of the building, or the financial cost of works to alter the building, were determinative factors. The Council does not object to some reasonable internal alteration of the building and on the face of it there is no apparent reason why this could not render it suitable for employment or community use. Moreover, there is at least a possibility that the guide sale price may have been a perceived, or an actual, undue influence in the 'balance of costs' for these potential purchasers.
10. The £'s per square foot achieved when it was sold to the appellant may have been comparable to a nearby office building. All bar one of the other former police stations referred to by the appellant are in different Council areas and values were established at various times. There would have been a different local planning policy or socio-economic context influencing the sale prices achieved. The police station in the Council's area was a statutory listed building

¹ Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.

in a rural location and included a former library. These examples are not therefore directly comparable. Moreover, there are no details of any other employment or community use comparisons in Maldon, or in the Council's area, which are said to have substantiated the guide price for the building. The former owner sought 'best value' and I am therefore not satisfied that the building was offered at an appropriate guide price that would have made it attractive for employment or community use.

11. Considering the above, I find that there has not been reasonable or appropriate marketing of the appeal building over a sustained period of time at an appropriate price. The marketing has not therefore been effective and it has not been demonstrated that an employment or community use for the building could not be found or that there is no need for either use. Consequently, the development would result in the unjustified loss of employment space and a community building contrary to the Council's development plan policies to retain such uses and sites. It would also conflict with objectives of the Framework to take account of local business needs and ensure that facilities and services are retained for the benefit of the community.

Other Matters

European designated habitat sites

12. The appeal site is within a zone of influence of the Essex Estuaries Special Area of Conservation, the Blackwater Estuary Special Protection Area (SPA) and Ramsar, The Dengie SPA and Ramsar and the Crouch and Roach Estuaries SPA and Ramsar. A significant effect on these European designated habitat sites would be likely to occur from the proposed increase in residential development alone, or in combination with other plans and projects, in an area where the additional residents would be within such proximity to these habitat sites that they would be likely to visit for recreational purposes.
13. The Council has carried out a Habitat Regulations appropriate assessment and has adopted the 'Essex Coast Recreational disturbance Avoidance and Mitigation Strategy' to address this matter. In this case, mitigation measures have been identified and the appellant has agreed to the unilateral undertaking which would secure a financial contribution towards their implementation. The Council agrees that on this basis the proposal would not adversely affect the integrity of these habitat sites. I have had regard to the Council's approach and to the unilateral undertaking in reaching my conclusion below.

Heritage assets

14. The appeal building is in the Council's local list of heritage assets for Maldon. Its significance derives mainly from its exterior appearance as a well-preserved early 20th century police station and its prominent, open landmark corner position. The proposed internal alterations would result in the loss of some of the police cells and this would cause limited harm to the significance of this non-designated heritage asset. Nonetheless, overall, and subject to a planning condition to retain an existing door opening, the proposal would conserve the building.
15. The appeal site is in the Maldon Conservation Area and next to Grade II* listed buildings at Nos 1, 3 and 3a High Street, within their setting. The conservation area includes some public buildings and others of appreciable stature. Their

fine architecture, attractive appearance and siting in important vistas or positions contribute to the significance of the conservation area in and around the High Street. The proposal would retain and meliorate the appearance of the principal external elevations and fenestration of the appeal building and bring it back into use. It would not materially alter the visual or physical relationship of the building to the listed buildings. This would be apparent in public views and in the context of nearby buildings, including the setting of the listed buildings.

16. The development would therefore have a positive effect on the character and appearance of the conservation area and a neutral effect on the special architectural and historic interest of the listed buildings, including their settings. Consequently, there would be no harm to, or loss of, the significance of these designated heritage assets. The proposal would therefore enhance the character and appearance of the conservation area and preserve the listed buildings and their settings.

Planning Balance

17. Since its decision the Council agrees that it can no longer demonstrate a 5-year housing land supply. The main parties agree that there is a 4.9-year supply. As a consequence, Framework paragraph 11(d) is engaged.
18. In terms of benefits, the provision of five dwellings would make a small (but notable) contribution to the District's housing supply. It would also help to meet an identified local need for 2-bedroom homes. The proposal would make use of a currently under-utilised building and this would be an effective use of land. Considering the modest scale of the proposal and the marginal extent of housing supply shortfall, these benefits (and the other economic, social and environmental benefits referred to by the appellant associated with building and occupying the homes) therefore have limited weight in the balance. The building would be conserved in a manner appropriate to its significance as a non-designated heritage asset, which carries limited weight, while conserving the Maldon Conservation Area is a matter which I am required to give great weight.
19. Notwithstanding the concerns raised by interested parties, I am satisfied that the development would provide satisfactory internal and external living conditions for future occupiers, including adequate provision for on-site car parking. The proposed change of use of the building and existing hard surfacing would not cause harm to a tree or to the listed buildings and the proposal would cause no harm to the living conditions of occupiers of nearby buildings. It would have a satisfactory means of access. These considerations comply with the requirements of the Council's development plan and are therefore neutral factors in my decision.
20. However, the proposal would result in the permanent loss of the building as a place of employment or as a community use, including in the wider sense as defined by the Council. It would do so without this having been adequately justified and could therefore have an undesirable adverse effect on the local economy and the provision of community facilities in the town centre. This would conflict with the Council's relevant development plan policies which are consistent with the Framework. The development would diminish the Council's overall strategy for retaining employment and community uses or sites, contrary to the expectations of the Framework. Consequently, I give substantial weight to these considerations.

21. Although the Framework seeks to significantly boost the supply of homes, it also states that sufficient land should be made available to meet other economic and social needs, including employment and community uses. Bearing in mind the limited extent of the shortfall in housing land supply, the adverse impact of a permanent loss of this site for such uses would significantly and demonstrably outweigh the benefits of the additional homes, when assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.
22. Since I intend to dismiss the appeal for these reasons, there is no need for me to consider the appellant's unilateral undertaking any further or to undertake an appropriate assessment with regard to the designated European habitat sites.

Conclusion

23. The proposed development would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
24. Therefore, for the reasons given above, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR