



Appeal Decision

Site visit made on 28 September 2021

by Julie Dale Clark BA(Hons) DipTP MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021.

Appeal Ref: APP/X1545/W/20/3261611 7 Cripplegate, Southminster CM0 7DW

- 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 Mrs B Navin against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/00629, dated 23 June 2020, was refused by notice dated 28 August 2020.
 - The development proposed is proposed 2 bed dwelling with off street parking.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed 2 bed dwelling with off street parking at 7 Cripplegate, Southminster CM0 7DW in accordance with the terms of the application, Ref FUL/MAL/20/00629, dated 23 June 2020, subject to the conditions set out in the attached schedule.

Procedural Matter

2. No issues have been raised about the details of the proposed house and I agree that the proposal is acceptable in terms of its detailed design and siting. The main issues in relation to this appeal are set out below.

Main Issues

3. I consider that the main issues are: -
 - the effect of the loss of the shop on community facilities; and
 - the effect of the proposal on natural habitats.

Reasons

Community Facility

4. No 7 Cripplegate includes a residential property and an attached small shop together with gardens and an access drive. The appeal site relates to the shop, 'The Little Shoppe', and part of the garden on the western side of the house. The shop is separately accessed from Cripplegate and comprises of just one room with a small ancillary room off it. Internally it is linked via a doorway to the house.

5. Local Plan¹ Policy E3 indicates that where a proposal would result in the loss of community services or facilities an application will be required to demonstrate to the Council's satisfaction that the existing business/service is not and cannot be made viable; and effective marketing has been carried out to demonstrate that there is no viable and appropriate alternative community service based use.
6. 'The Little Shoppe' is owned and run by the appellant and given its scale and relationship to the house, it is reasonable to assume that its commercial viability would be limited. It is simply a single room with a very small ancillary room off it but no facilities such as a WC. The appellant has run it as a small clothes shop and any wider community value would be limited. From seeing the property, I do not consider that extensive marketing would be necessary and its likely uses as any other kind of community facility would be limited. Other facilities exist in the village and the loss of this property, on the outer edges of the village, would be unlikely to harm the local community.
7. On this issue, I do not consider that the local community would be harmed by the loss of this small shop and whilst its presence has contributed towards the village facilities over the years, its loss would have only a modest impact on the day to day functioning of village life. I do not therefore consider that it is of a scale to undermine the objectives of Local Plan Policy E3.

Nature Conservation

8. The Council describes the appeal site as falling within the Zone of Influence for one or more European designated sites as defined by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Natural England has stated that new residential development in this area is likely to have a significant effect on sensitive interest features through increased recreational pressure when considered in combination with other plans and projects.
9. In accordance with the Conservation of Habitats and Species Regulations 2017 my assessment accords with the Council's and I agree that residential developments could potentially have a significant effect on the sensitive interest features of coastal European designated sites through increased recreational pressures. Whilst only one house is proposed, the cumulative effect of such developments could harm natural habitats through recreational pressures. Provided that mitigation is secured, the proposed new dwelling, when considered in combination with other development, would not have an adverse effect on the European sites from recreational disturbance. I agree that the most appropriate form of mitigation in this instance is by way of a financial contribution. Local Plan Policy I1 sets out the requirements for such contributions. The Council's Officer Report calculate that a flat rate sum of £125.58 per dwelling would be required.
10. Whilst one of the reasons for refusal relates to the lack of a legal agreement to secure this contribution, the appellant has submitted an executed Unilateral Undertaking for the sum quoted above as part of the appeal papers. However, the Council comment that the sum should now be £127.30 and therefore there is a shortfall. The Council also state that a fee of £30.00 is required for the Council to check the land registry details. However, the UU includes a £30.00

¹ Maldon District Council – Maldon District Approved Local Development Plan 2014 – 2029, July 2017.

checking fee as well as a £50.00 monitoring fee. Given that the shortfall is a small sum of money, I see no reason to hold up development for this reason. I find that this matter is adequately addressed and Local Plan Policy I1 is satisfied.

Conditions

11. I have considered the conditions suggested by the Council in the light of the Planning Practice Guidance². A condition relating to materials is necessary in order to achieve a satisfactory appearance. A Construction Method Statement would also be necessary in order to ensure that the demolition and building work are carried out having regard to highway safety and the living conditions of nearby residential properties. A scheme of soft and hard landscaping is required in order to achieve a satisfactory appearance. A separate condition relating to boundary treatments is not necessary as this would be addressed in the landscaping scheme. A drainage scheme would be required as part of the development and as no details are supplied, its submission by way of a condition is reasonable.
12. The Council suggest a condition in respect of cycle storage and storage of refuse bins which I consider is necessary in order to ensure such provision is made. Also suggested is a condition requiring parking spaces to be provided and retained which also is necessary to ensure appropriate off site provision is met.
13. The Council include a condition removing permitted development for the erection of garages or outbuildings. However, I see no special reason why the dwelling should be so restricted. Likewise, I see no specific justification for withholding permitted development rights for windows or other openings above that which would require planning permission.
14. The appeal site is relatively level but no details of finished floor levels are included in the submitted plans, I therefore propose to impose a condition requiring them. This is necessary given the position of the proposed dwelling between houses. A suggested condition requiring the provision of vehicular access is not necessary as these details would be required as part of the approved development as shown on the approved plans which is covered by another condition. A separate condition relating to surface water is not necessary given that I have already agreed that a drainage condition is necessary. The Council suggest that no unbound surface treatment is used in the parking areas but this matter would be dealt with by a scheme for soft and hard landscaping. A separate condition is not necessary. A condition relating to unloading / loading and storage of building materials is also unnecessary as this can be addressed under the Construction Methodology Statement.
15. Essex County Council identify the site as having the potential to hold archaeological features and deposits and therefore suggest conditions relating to archaeological assessment and the implementation of an archaeological fieldwork programme. I agree that a condition is necessary in order to record any appropriate archaeological features of interest.
16. A condition requiring the development is carried out in accordance with the approved scheme is necessary for the avoidance of doubt and in the interest of

² Planning Practice Guidance, Published 6 March 2014. Last Updated 23 July 2019.

proper planning. I have amended the wording of some of the suggested conditions and re-ordered them for clarity.

Conclusion

17. I have found that the loss of the shop would not have an adverse effect on the local community and the financial contribution would serve as mitigation for pressures on sites of acknowledged ecological importance. I consider that the proposal would not conflict with the policies above or with the National Planning Policy Framework³ I have considered all other matters raised but none alter my conclusion.
18. I conclude that the proposal would not have a harmful effect on local community facilities or on natural habitats. The appeal therefore succeeds.

J D Clark

INSPECTOR

³ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021.