



Appeal Decision

Site visit made on 4 January 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/X1545/W/21/3273786

144B High Street, Maldon CM9 5BX

- 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 Vernon Wilkinson (Knight Gratrix Architects) against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/01062, dated 16 October 2020, was refused by notice dated 23 December 2020.
 - The development proposed is described as the "extension and refurbishment of existing coach house to form 1 No. residential unit (Amended application to previously refused scheme 19/01234/FUL to show additional amenity space)".
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Decision

1. The appeal is dismissed.

Application for Costs

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

Preliminary Matters

3. Whilst I note that a request was made to change the name of the appellant to Southend & District Building Preservation Trust [East] Ltd, I have taken the name of the appellant in the banner above from the application forms.
4. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

5. The main issues in this appeal are 1) the effect of the proposal on the living conditions of future occupiers with particular regard to private amenity space, and 2) whether there is a requirement for a contribution towards the Essex Coasts Recreational Disturbance Avoidance and Mitigation Strategy.

Reasons

Living Conditions

6. The appeal site forms a two storey detached former coach house which is to be extended and converted into a two bed dwelling. The existing building is set behind the High Street and proposes an external amenity area of some

- 52 sq. m which would be located between the appeal property and to the rear of properties on the High Street.
7. The proposed amenity space would exceed the 50 sq. m for the two bedroom dwelling detailed within the Maldon District Design Guide 2017 (MDDG) and indeed it would meet some of its other requirements. However, the MDDG also requires an amenity space to be suitable so that it may provide opportunities for play, to hang out washing and for general relaxation and recreation. Furthermore, boundary treatments should provide a secure and private area.
 8. The amenity space lies adjacent to an access that allows vehicles to enter a parking area and two dwellings to the rear of the appeal site. This access directly passes the proposed amenity area which, at the time of my visit, was bound by a close boarded fence. However, as the Council confirm that it does not benefit from planning permission, I have not taken the fence into account as part of my considerations.
 9. Thus, although its size would be adequate, the quality of the space is somewhat lacking. I acknowledge that in town centres it may not always be possible for the 25m back to back distance required by the MDDG to be achieved. However, even accounting for this, the proposed amenity space would still fail to provide an area that is secure and private. It would be sited very close to the rear of properties on the High Street, with windows looking directly into the amenity space.
 10. Moreover, notwithstanding that the access would only serve two dwellings, it would still be very close to the amenity space, which, combined with the lack of appropriate enclosure and direct overlooking, leads me to conclude that it would be heavily compromised and not be a private or functional area necessary for day to day living of the future occupiers of the proposed dwelling. Furthermore, I am not persuaded that a planning condition to provide details of boundary treatments would overcome the harm I have identified above.
 11. Thus, the development would provide inadequate living conditions for future occupiers. It would be in conflict with Policies D1 and H4 of the Maldon District Council Local Development Plan 2014-2029 and paragraph 130 of the Framework which seek, amongst other things, to ensure that developments provide sufficient and useable private amenity spaces. In reaching this decision I have also had regard to the MDDG.

Essex Coasts Recreational Disturbance Avoidance and Mitigation Strategy

12. The development falls within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). To ensure the requirements of the Conservation of Habitats and Species Regulations 2017 are met, the Council requires the collection of payments from relevant developments towards the mitigation measures set out in the RAMS on areas identified as the Essex Estuaries Special Area of Conservation, Blackwater Estuary Special Protection Area (SPA), Dengie SPA and Crouch and Roach Estuaries SPA.
13. As the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Furthermore, had I been minded to allow the appeal, I would have explored the necessity for undertaking an

Appropriate Assessment and whether any financial payment would off-set the impact of the development on the sites identified above.

Other Matters

14. I acknowledge that the appeal site secured planning permission for the conversion of the building into a live/work unit¹. However, from the evidence that has been presented, this appeal is no longer extant and pre-dates the MDDG. Moreover, the permission previously granted at the site was for a one bedroom unit which is different to the two bedroom unit sought as part of this appeal. Therefore, I only afford this matter limited weight in support of the appeal.
15. I also note that the dwellings behind the appeal site have small amenity areas. However, I have not been provided with details of the circumstances that led to the approval of these units in order that I may make a direct comparison to the development before me. That said, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

Conclusion

16. Thus, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR

¹ 13/00230/FUL