



Appeal Decisions

Site visit made on 18 April 2023

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal A Ref: APP/X1545/W/22/3303331

91, The Gnomes, Main Road, St Lawrence CM0 7NA

- 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 K Smither against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/01223, dated 23 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is the demolition of existing chalet and garage and the erection of 3 dwellings, detached garages with associated parking and landscaping.
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Appeal B Ref: APP/X1545/W/22/3312641

91, The Gnomes, Main Road, St Lawrence CM0 7NA

- 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 K Smither against the decision of Maldon District Council.
 - The application Ref FUL/MAL/22/00525, dated 7 April 2022, was refused by notice dated 9 June 2022.
 - The development proposed is the demolition of existing chalet and garage and the erection of 3 dwellings, with associated parking and landscaping.
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Decision

1. Appeal A is allowed and planning permission is granted for the demolition of existing chalet and garage and the erection of 3 dwellings, detached garages with associated parking and landscaping at 91, The Gnomes, Main Road, St Lawrence CM0 7NA in accordance with the terms of the application, Ref FUL/MAL/21/01223, dated 23 November 2021, subject to the conditions contained within the attached schedule.
2. Appeal B is dismissed.

Preliminary Matters

3. Appeal A includes a pair of semidetached units and appeal B a terrace. Appeal B also has integral garaging. Reference to three detached dwellings on each application form and detached garaging on appeal B is therefore an error. The correct detail for each scheme is shown on each set of submitted plans which are approved as part of appeal A. To avoid confusion, I have omitted reference to the erroneous descriptive elements above. The changes I have made do not change the fundamentals of the scheme in each proposal nor prejudice the case of either party in relation thereto. I have proceeded on this basis

Main Issues

4. The main issues are:

- The effect of the proposed development on the character and appearance of the area;
- Whether the proposed development would provide a suitable housing mix (appeal A only)
- The effects of the proposed development on the Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, and Crouch and Roach Estuaries SPA and Ramsar site.

Reasons

Character and Appearance

5. The appeal site includes an existing bungalow set within a large garden. The site is located a short distance from the shore of the Blackwater estuary and is on the cusp of areas of different built character. The area to the south of the appeal site is characterised by a low-density, mid-20th century bungalows and chalet-style dwellings fronting Main Road, with an estate of two storey dwellings along Wick Farm Road clearly visible within the street scene.
6. In contrast, the waterside area between the appeal site and shore includes a number of dwellings of contemporary design, such as the A-frame properties immediately north of the appeal site, and vernacular dwellings with traditional features such as painted weatherboarding.
7. Both appeal proposals would significantly exceed the height of the adjacent bungalows. The dwellings proposed through appeal A would have an asymmetric form and roofline. Whilst the tallest section of each dwelling would provide rooms across three storeys, the roof ridge would be of similar height to the neighbouring two-storey A-frame dwellings. The lower section of the roof would be marginally taller than the ridge height of the bungalows. The asymmetric form would reduce the bulk and mass of the dwellings, allowing views of the sky above the lower sections thereby retaining a sense of spaciousness.
8. The alternative design proposed by appeal B would comprise a row of three terrace dwellings with projecting front gables and a hipped roof. The ridge height would be marginally lower than the adjacent A-frame dwellings. However, the height and mass of the terrace row would add considerable bulk at roof level which would appear dominant within the street scene, in stark contrast to the low height of the bungalows and the narrow form of the upper sections of the A-frame dwellings. This visual dominance would detract from the positive contribution the A-frame dwellings make to the street scene.
9. Whilst there are examples of tight-knit dwellings within the area, surrounding dwellings are typically detached and set within large plots. The area's low-density development and low building heights allows views of the sky, and from Main Road and across the open grounds of the sailing club are distant views across the Blackwater estuary. The prevailing character is therefore generally open and spacious.

10. Appeal A would include a pair of semi-detached dwellings and one detached dwelling. This layout would maintain a degree of separation between buildings and would appear compatible with the urban grain. The proposal would not result in the site appearing cramped or over-developed.
11. The appeal B proposal would have projecting front gables which would add rhythm to the row. However, the terrace form extending across the width of the site, devoid of any separation between the units, would appear awkward and against the grain of surrounding development and the spacious feel of the area.
12. On the approach along Main Road from the direction of the village, longer distance views of the A-frame dwellings are generally obscured by mature trees along the road frontage. From the immediate vicinity of the appeal site, the side of the nearest A-frame dwelling is visible. However, this side elevation is a tiled section extending from the ground to roof which contributes limited interest from this vantage point.
13. The visual interest provided by the A-frame dwellings is most visible from the front and from the waterside area, such as from the seating area opposite the pub. From these locations, views of the A-frame dwellings would not be obstructed by either proposal.
14. The design of each appeal proposal reflects different aspects of the area's character and, due to their height and scale, both schemes would appear visually prominent in the street scene. The dwellings proposed through appeal A are of a contemporary design with an asymmetric form which references the adjacent A-frame dwellings and other contemporary buildings in the vicinity of the waterside. The proposal would provide a continuation of this modern form of development. Whilst some residents were concerned the design of the scheme would appear too urban for its rural location, the proposal would add visual interest and would complement, and not detract from, the positive contribution the A-frame dwellings make to the quality of the area.
15. The appeal A proposal would not therefore harm the character and appearance of the area. The proposal would comply with Policies D1 and H4 of the Maldon District Local Development Plan 2017 (LDP) which requires proposals to respect and enhance the character and local context and make a positive contribution in terms of architectural style, height, size, scale, form, massing and proportion, and contribute to and enhance local distinctiveness.
16. Appeal B seeks to expand northwards the more traditional design of dwellings located within the main part of the village. The design takes inspiration from architecture seen in and around the locality with the intention of complementing the local vernacular. However, the height, bulk and terrace form of the proposed development would appear out of keeping with the low-density and low height of buildings to the south of the site and would detract from the positive contribution the contemporary A-frame dwellings make to the street scene. The proposal would thus harm the character and appearance of the area and fail to achieve the high standard of design and local distinctiveness required by Policies D1 and H4.

Housing Mix

17. The Maldon District Local Housing Needs Assessment 2021 (HNA) indicates that, in respect of house sizes, the greatest requirement is for 3-bedroom dwellings. The proposal would provide three 3-bedroom dwellings, and on this basis would contribute to meeting the district's need for dwellings of this size.
18. The roof space of each proposed dwelling would include a snug and a study. The Council notes that if future occupants utilised those rooms as bedrooms, the dwellings would form 5-bedroom dwellings. Whilst the manner in which future occupants use the dwellings is outside the appellant's control, it is not uncommon for dwellings to be designed with additional reception rooms or spaces for homeworking.
19. I understand the HNA also identifies a need for larger dwellings, albeit of a lesser proportion than the area's need for 3-bedroom and smaller dwellings. In the event that occupants choose to use the additional rooms as bedrooms, the proposed development would help meet the area's need for larger dwellings.
20. Whilst I have had regard to the Council's comments in respect of potential use of other rooms, I must determine the appeal on the basis of the submitted evidence. I therefore consider that, through contributing to meeting the district's need for 3-bedroom dwellings as identified by the HNA, appeal A would provide a suitable housing mix. The proposal would therefore comply with LPD Policy H2 which requires all developments to provide a suitable mix and housing in terms of size to reflect local housing need.

SACs, SPAs and Ramsar Sites

21. The conservation objectives for the Essex Estuaries SAC seek to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features. Such qualifying features includes sandbanks which are slightly covered by sea water all the time; subtidal sandbanks; estuaries; mudflats and sandflats not covered by seawater at low tide; intertidal mudflats and sandflats; Atlantic salt meadows; Mediterranean and thermo-Atlantic halophilous scrubs; Mediterranean saltmarsh scrub; Salicornia, glasswort and other annuals colonising mud and sand; spartina swards; and cord-grass swards.
22. The conservation objectives for the Blackwater Estuary SPA and Ramsar site are to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the aims of the Wild Birds Directive. The site's qualifying features include its assemblage of waterbirds, including dark-bellied brent goose, common pochard, hen harrier, ringed plover, grey plover, dunlin, black-tailed godwit, and little tern.
23. The conservation objectives for the Dengie SPA and Ramsar site seek to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the aims of the Wild Birds Directive. The site's qualifying features include its assemblage of waterbirds, including dark-bellied brent goose, hen harrier, grey plover, and red knot.
24. The conservation objectives for the Crouch and Roach Estuaries SPA and Ramsar site are to ensure that the integrity of the site is maintained or restored and that the site contributes to achieving the aims of the Wild Birds

Directive. Its qualifying features include its assemblage of waterbirds including dark-bellied brent goose.

25. As I have dismissed appeal B on other grounds, my assessment here focusses on the scheme for appeal A, which would be located within the recreational 'Zones of Influence' of the above mentioned sites. Natural England (NE) has also advised that the proposed development would fall within zones of influence for sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The proposal would, owing to its nature, lead to an uplift in the local population, placing additional recreational pressure on the use of the sites. In isolation and in association with other similar development therefore, the scheme is likely to have a significant effect on their integrity.
26. Taking into account NE advice, the proposed development falls within the scope of the RAMS as 'relevant development'. A financial contribution is therefore necessary to help fund strategic measures targeted towards increasing the resilience to recreational pressure in line with the objectives of the RAMS.
27. The appellant has made a financial contribution of £461.90 toward the RAMS tariff for the purposes of a previously refused planning application relating to the appeal site, which I understand can be transferred to the relevant scheme¹. Appropriate mitigation has thus been secured. The contribution is directly related to the appeal scheme, relates to a standard charge based on the scale and type of residential development proposed, and is fairly and reasonably related to the proposal in scale and kind. The scheme would therefore comply with the Conservation of Habitats and Species Regulations 2010 (as amended).

Other Matters

28. Appeal B would give rise to harm to the character and appearance of the area. I would attribute significant weight to this matter. The Council cannot demonstrate a five-year supply of deliverable housing sites. I understand the available supply is equivalent to 3.66 years, which is a significant shortfall. In these circumstances footnote 8 of the National Planning Policy Framework (the Framework) establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
29. Appeal B would contribute new dwellings to the area's housing stock albeit at a limited scale. It would make effective use of existing residential land, provide construction jobs and support the local economy, provide additional footfall to benefit local services and facilities, and provide a net gain in biodiversity. The proposal would therefore provide a range of modest social, environmental and economic benefits which would accordingly be worthy of modest weight.
30. The LDP dates from 2018 but the weight to be attached does not hinge on its age. Rather paragraph 219 of the Framework makes clear that due weight should be given to existing policies according to their degree of consistency with the Framework. Paragraph 130 of the Framework indicates that new developments should be visually attractive as a result of good architecture, be sympathetic to local character, and establish or maintain a strong sense of

¹ LPA reference: 21/00280/FUL

place. Therefore, there is a great deal of synergy between the development plan policies pertinent to the appeal and the Framework.

31. With the above in mind, the adverse impacts from appeal B would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development would not therefore apply to appeal B.
32. The site layout plan shows the proposed dwellings would not extend significantly beyond the front or rear elevation of neighbouring dwellings and would be broadly aligned with adjacent dwellings. For these reasons, along with the orientation of the site, I consider the proposal would not result in a significant loss of light or overshadowing for neighbouring occupiers. However, the arrangement of windows at the proposed dwelling at Plot 3 would create opportunities for overlooking from windows facing north toward No 93. To protect the living conditions of the occupants of No 93, I have attached a condition requiring relevant windows be obscure-glazed.
33. Main Road is a fairly narrow, residential street with on-street parking prohibited by double-yellow lines. The Highway Authority were consulted and, whilst they did not object to the proposal, provided a list of suggested conditions which I have considered and imposed as appropriate. As illustrated on the site layout plan, each plot would be served by a driveway with parking spaces and a garage and would therefore make suitable provision for off-road vehicle parking.
34. At time of my site visit, the rear garden consisted mainly of an open area of grass with occasional small shrubs. I understand the garden has been cleared of taller vegetation. The site layout plan for appeal A indicates a new hedge is to be planted around the site boundary. The Council's Arboricultural Consultant was consulted and recommended a condition for a scheme of soft landscaping including trees and shrubs for the benefit of amenity and wildlife. I have attached a condition to my decision requiring a landscaping scheme be submitted.

Conditions

35. In addition to the standard time limit of the planning permission granted, in the interests of certainty I have attached a condition specifying the approved plans. I have considered suggested conditions against the Framework's tests.
36. To protect the living conditions of the occupants of No 93, I have attached a condition requiring north-facing windows at Plot 3 be non-opening below 1.7m and obscure-glazed. To conserve the character of the area, I have attached a condition requiring the provision of landscaping in accordance with an approved scheme.
37. The Council's Environmental Health team raised concerns regarding the discharge of surface water. Likewise, the Highways Authority sought to prohibit the discharge of surface water to the highway. To ensure that surface water from the site is managed sustainably and thus to ensure the proper functioning of the development, I have attached a condition requiring surface water drainage works implemented in accordance with details approved by the Council.

38. To ensure the development provides a suitable standard of highway safety, I have included the Highway Authority's suggested conditions relating to matters of vehicular access and visibility. In the interests of clarity and conciseness, I have incorporated these requirements into a single condition. However, I have not included the requirement for widening of the driveway at Plot 1 as to do so would require alterations to the site layout or design of dwellings which may give rise to issues not assessed as part of the appeal, and in this regard the condition would not be reasonable. I consider the proposed width of the driveway to be adequate.
39. In the interests of promoting sustainable transport, I have included the Highway Authority's suggested condition requiring a Residential Travel Information Pack and public transport vouchers be provided to future occupants.
40. I have not included the Highway Authority's suggested condition requiring space for construction vehicles be provided clear of the highway. Main Road is subject to existing parking and stopping restrictions and therefore the condition is not necessary.

Conclusion

41. Appeal A would not give rise to harm and as a result would comply with the development plan. It should therefore be allowed. Appeal B would harm the character and appearance of the area which would lead to conflict with the development plan. There are no material considerations, including the provisions of the Framework, worthy of sufficient weight that would outweigh this conflict. Appeal B should therefore be dismissed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 21/04/11; Existing Site Plan 21/04/12; Existing Dwelling Plans & Elevations 21/04/13; Proposed Site Plan 21/04/14; Proposed Plans & Elevations Plots 1 & 2 21/04/15; Proposed Plans & Elevations Plot 3 21/04/16; Proposed Outbuildings 21/04/17; Indicative Street Scene 21/04/18.
- 3) The development hereby permitted shall not be first occupied until the north-facing windows at Plot 3 have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 4) The development hereby permitted shall not be first occupied until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) The development hereby permitted shall not be first occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - include a timetable for its implementation; and,
 - provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) The development hereby permitted shall not be first occupied until the proposed shared private drive has been constructed to a width of 5.5 metres for at least the first 6 metres from the back of highway boundary and provided with an appropriate dropped kerb crossing of the footway/verge.

The width of the access to Plot 1 at its junction with the highway shall be 3.6 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

Any redundant parts of the existing accesses on the frontage shall be suitably and permanently closed incorporating the reinstatement to full height of the highway kerbing immediately the proposed new accesses are brought into first beneficial use.

Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

- 7) The development hereby permitted shall not be first occupied until a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator has been provided, implemented and distributed to each dwelling hereby permitted, free of charge.