



Appeal Decision

Site visit made on 2 May 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/X1545/W/22/3310529

Stables, Mangapp Chase, Burnham on Crouch, CM0 8QQ

- 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 an outline planning permission.
 - The appeal is made by Mr Andrew Clarke against the decision of Maldon District Council.
 - The application Ref RES/MAL/21/00865, dated 22 August 2021, sought approval of details pursuant to condition No 1 of outline planning permission Ref OUT/MAL/18/01227, granted on 5 December 2018.
 - The application was refused by notice dated 5 May 2022.
 - The development proposed is described as "change of use of the site to residential, demolition of existing stables and erection of two dwellings".
 - The details for which approval is sought are: access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Main Issues

2. The outline planning permission¹ included two conditions that required details to be submitted at the time of the reserved matters application. Condition 7 required the submission of a scheme of noise mitigation at the same time as the approval of the matter of 'layout' and condition 8 required specific details to be submitted for the approval of the matter of 'landscaping'. It is incumbent upon me to consider whether the proposal complies with these conditions and therefore it is necessary for me to consider these matters as main issues.
3. Therefore, the main issues are:
 - whether the proposal adheres to the requirements of conditions 7 and 8 of the outline permission; and
 - the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Conditions 7 and 8 of the Outline Permission

4. Condition 7 of the outline permission states, amongst other things, "at the same time that an application is made for the approval of the matter of layout, a scheme of noise mitigation shall be submitted and be accompanied with

¹ Planning application Ref: OUT/MAL/18/01227

details of a noise assessment that demonstrates the levels of noise that are likely to impact upon the occupation of the site". No such details have been submitted.

5. Permission was granted to remove condition 7 of the outline permission by application Ref: 21/00863/VAR. However, the requirements of condition 7 are still applicable to planning Ref: OUT/MAL/18/01227, which is a separate standalone permission. Consequently, the absence of a scheme of noise mitigation does not meet the requirements of condition 7 of the outline permission and therefore I am unable to determine whether the proposal's layout is acceptable in this regard.
6. Condition 8 of the outline permission requires specific details to be submitted with the reserved matter of landscaping including:
 - the layout of the hard landscaped areas with the materials and finishes to be used together with details of the means of enclosure, car parking layout, vehicle and pedestrian accesses; and
 - schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme.
7. The Site Plan includes some of these details but does not specify the materials or finishes to be used, the type of 1.8m high fence, the design or height of gates, or the species/stock size/number/density of the proposed native species hedge. Furthermore, no details have been provided regarding the planting scheme's implementation, aftercare and maintenance programme. The appellant submitted further details in respect of landscaping during the appeal. However, interested parties have not had the opportunity to comment upon these details and therefore would be prejudiced by their inclusion. I therefore cannot take these details into consideration in determining the appeal. Even if these details had been accepted, they do not include all the information specified within condition 8. The main parties have suggested a landscaping condition could be attached should the appeal be allowed. However, condition 8 of the outline permission expressly requires the information to be submitted with the reserved matter of landscaping.
8. In conclusion, the reserved matters application does not adhere to the requirements of conditions 7 and 8 of the outline permission and therefore, insufficient information has been submitted in respect of the reserved matters of layout and landscaping. The proposal would therefore be contrary to Policies D1 and S8 of the Maldon District Approved Local Development Plan 2014-2029, adopted 2017 (LDP) that, amongst other things, seek to protect the amenity of surrounding areas taking into account noise and ensure developments respect and enhance the character and local context.

Character and Appearance

9. The appeal site is located within the countryside. It is separated from Burnham-on-Crouch to the south (a Main Settlement as defined by Policy S8 of the LDP). However, a housing development of 80 dwellings is currently under construction that adjoins the built-up part of the Main Settlement to the appeal site. Prior to the construction of the housing development, the appeal site is likely to have had a more rural setting. However, this has been significantly

eroded as it is now enveloped by the housing development along two sides and has the appearance of forming part of Burnham-on-Crouch.

10. The appeal site is located to the east of Mangapp Chase; a narrow, unmade road. The western side of the road comprises a ribbon of predominantly detached, two-storey dwellings that are mixed in appearance, have relatively large plots, and are set back from the road with front gardens/parking areas, some of which contain detached outbuildings. The ribbon adjoins an open field towards the northernmost part of the road, which separates it from Mangapp Manor and Mangapps Railway Museum to the north. Mangapp Manor comprises a detached dwelling set within extensive grounds. The eastern side of the road has a denser urban grain with varying plot sizes. Dwellings either front towards the road or present their rear/side elevations to Mangapp Chase. Again, the dwellings are mixed in appearance, and some have detached outbuildings within their front gardens. The housing development currently under construction comprises a mix of property types and plot sizes. Consequently, the character and appearance of the surrounding area is extremely varied.
11. The proposed dwellings would be detached, two-storeys in height with accommodation in the roofspace. They would each have a different design and the appeal site would be divided to provide plots of unequal sizes. The dwellings would front towards Mangapp Chase and be set back from the road by a front garden/parking area. Therefore, they would be similar in character and appearance to the dwellings along the western side of Mangapp Chase. While the footprint of the proposed dwellings is larger than those dwellings that form part of the housing development to the south/east, they are not dissimilar to the footprint of some of the dwellings along the western side of Mangapp Chase.
12. A significant gap of 8m would be maintained between the two dwellings, while a gap of 2m would be positioned between each dwelling and the side boundaries. The spacing between and around the dwellings would ensure that they do not dominate the site frontage. Furthermore, there is no consistent spacing between dwellings in the surrounding area that the proposal should respect. The dwelling on plot 2 would have a rear projection that would result in a smaller rear garden. However, the garden would exceed the Council's requirement of 100m² of private amenity space for dwellings with three or more bedrooms. Furthermore, the rear garden of plot 2 would be comparable in size to others along the western side of Mangapp Chase and significantly greater in size than some of the gardens on the eastern side of the road.
13. Each dwelling would have a detached, single storey cartlodge located within the front garden that would be used for vehicle parking. There is no consistent building line along this part of Mangapp Chase. The housing development under construction would be set back from Mangapp Chase, leaving a gap devoid of development to the south of the appeal site. However, immediately to the north of the appeal site there is a substantial detached outbuilding within the grounds of Mangapp Manor that is of similar materials to the proposed cartlodges, and due to its scale and siting, is highly prominent when viewed from the road. The proposed cartlodges would be smaller than this building and would be marginally set further back from Mangapp Chase. Due to the scale and siting of the proposed cartlodges they would not overly dominate the site frontage. Furthermore, the presence of the adjacent outbuilding would ensure that the cartlodges would not appear incongruous or overly prominent when

viewed from the road, even if the roadside hedge was removed. The siting of the cartlidges would also be similar to the siting of other detached outbuildings within the front gardens of dwellings along Mangapp Chase.

14. The appellant has directed me towards examples of dwellings that have been constructed in the surrounding area that they consider support their case, including Bluebell Gardens, Mangapp Chase² and Pannel's Brook House, Green Lane³. These two previously approved dwellings are almost identical copies of the proposed dwellings. While I note the concerns of the Council in respect of particular design elements of each dwelling, most of these features were included as part of the previously approved dwellings. While the dwelling on plot 1 would include patio doors and a front door within the front elevation, the different door designs together with the associated hard and soft landscaping to the front garden would ensure that the patio doors would appear subservient to the front door. Furthermore, the change to the porch complements the character and appearance of the proposed dwelling and would not detract from the character or appearance of the surrounding area. I therefore do not agree with the Council that the appearance of the proposed dwellings would be incongruous or detract from the character or appearance of the surrounding area.
15. Concern has been raised that the proposed development is not comparable to that shown on the indicative drawings submitted at the outline stage. However, it is not incumbent on the reserved matters application to follow what was shown on the indicative drawings.
16. In conclusion, for the reasons detailed above, the proposed development would not adversely affect the character and appearance of the surrounding area. It would therefore comply with Policies S1, S8, D1 and H4 of the LDP that, amongst other things, seek to ensure that developments respect the character and local context, have regard to the existing character and density of the surrounding area, maintain the rural character of the district without compromising the identity of its individual settlements, and protect the countryside for its landscape as well as its intrinsic character and beauty.

Conclusion

17. For the reasons outlined above, having had regard to the development plan as a whole and all other matters raised, the appeal should be dismissed.

A Berry

INSPECTOR

² Planning application approval Ref: MAL/17/00692/FUL

³ Planning application approval Ref: MAL/16/00610/FUL