



Appeal Decision

Site visit made on 21 September 2023

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/X1545/W/22/3305283

Woodpeckers, 15 Mangapp Chase, Burnham-on-crouch, Essex, CM0 8QQ

- 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 David James of Approved Planning Services against the decision of Maldon District Council.
 - The application Ref FUL/MAL/22/00540, dated 12 April 2022, was refused by notice dated 22 July 2022.
 - The development proposed is demolition of existing outbuildings and erection of four 4 bedroom dwellings and a 3 bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and erection of four 4 bedroom dwellings and a 3 bedroom dwelling at Woodpeckers, 15 Mangapp Chase, Burnham-on-crouch, Essex CM0 8QQ in accordance with the terms of the application, Ref FUL/MAL/22/00540, dated 12 April 2022, subject to the following 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: sk.2115.1; sk.2115.2, sk.2115.3, sk.2115.6, Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4 Ecology Ltd, December 2020), Written Scheme of Investigation For an Archaeological Evaluation (January 2022)

Applications for costs

2. The appellant has made an application for an award of costs against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. Planning permission has previously been granted for demolition of outbuildings and erection of 5 dwellings (ref. 20/01288/FUL). The site was then sold to the appellant. An application to amend the design of the dwellings was authorised for approval subject to completion of a legal agreement for an affordable housing commuted sum (ref. 21/01160/VAR). This has not been completed, the appellant considering the agreement would render the scheme unviable.
4. The appeal proposal excludes the existing dwelling and its retained garden from the application site and proposes changes to the size and design of the dwellings and garages to ensure that the 1000sqm threshold for an affordable housing contribution is not exceeded.

5. The first refusal reason refers to “*unresolved design elements*” particularly to roofs being detrimental to the character and appearance of the area.
6. After submission of the appeal, the appellant has been granted permission to a further application for 5 houses (ref. 22/01069/FUL) and for amendments to the original permission (ref. 23/00025/VAR).
7. There has been implementation of permissions. At the time of my site visit, the site was an active building site with houses at plots 1-4 at an advanced stage of construction and work above ground level at plot 5.
8. During the appeal process, the appellant has submitted a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, to secure a financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, or another appropriate mitigation strategy, to overcome the impacts of the development on European designated nature conservation sites. The Council accepts this overcomes concerns raised in its second reason for refusal. The planning obligation satisfies the test set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (2010) in that it is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. As such, the Council’s second refusal reason falls away.

Main Issue

9. The main issue therefore is the effect of the proposal on the character and appearance of the locality in relation to the design of the proposed dwellings.

Reasons

10. The layout of the development under the original permission (20/01288/FUL) and the scheme under construction is similar to that for the appeal proposal. The houses on plots 1 and 2 front Mangapp Chase. The original permission showed both houses with a detached double garage to side gardens. The appeal proposal includes integral single garages within a two-storey side addition with a dropped ridge and hipped roof. The houses on plots 1 and 2 have been built with these side additions, dropped ridge and hipped roofs.
11. The Council’s appeal submissions criticise the overall width of the dwellings as “*not in proportion to the main body of the dwelling, unbalancing the appearance of the dwellings, seeming “top heavy” to the detriment of the overall architectural merit of the scheme*”. In my judgement, the side additions are subservient in appearance to the main part of the dwelling and do not unbalance the appearance of the dwellings. The hipped pitched roofs are a consistent and unifying design feature that are not unduly bulky. The dwellings are adequately separated and removal of the detached double garages in the original permission adds to the overall impression of spaciousness. Their design is consistent with the architectural approach to that for other houses in the development and not out of keeping with the eclectic and mixed pattern and character of development in the surrounding area.
12. The houses on plots 3, 4 and 5 are sited away from the Mangapp Chase road frontage but plot 3 is still prominent at the head of the site access road. The Council raises no objection to the house proposed on plot 3 and nor do I.

13. The house proposed on plot 4 is shown to have a hipped roof to both sides and a front gable as have those on plots 1, 2 and 3. The Council's objection is to an increased bulk arising from a two-storey rear projection including a gable end to its roof. The house under construction at the time of my visit had a hipped roof over the two-storey rear projection, which better reflects the design of the rest of the house. However, the massing of the rear projection is not visible in the street scene and can only be perceived from land at plots 3 and 5 and from dwellings in a cul-de-sac beyond the rear boundary to plot 4. The massing of the gable end roof would not be disproportionate to the house or unduly obtrusive.
14. As originally approved, the house on plot 5 had gable ends, a decorative front gable and twin rear gables plus a detached double garage. The appeal proposal is for a house with a hipped roof to both sides and front gable to match others in the development. The Council's objection is to the roof over an attached single garage at the side (to replace the detached double garage) which would have a pitched roof with a gable end and a ridge that would just exceed the height of the first floor eaves. In my judgement, the gable end roof over this single storey element would result in a satisfactory appearance for the house. Its ridge would be behind the line of the front eaves and not readily perceived in the same context. The gable end would be adjacent to a more open area vacated by the previously proposed detached double garage.
15. The proposal as a whole would not be detrimental to the character and appearance of the locality and would be compatible with Policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (2017) relating to sustainable development, the location of development within settlement boundaries, compliance with good design principles and effective use of land. Neither would there be material conflict with policies within chapters 11 and 12 of the National Planning Policy Framework (the Framework) on making effective use of land and achieving well-designed places.

Planning balance

16. The proposal would have the benefit of providing 5 additional dwellings in a sustainable location not far from services and facilities in Burnham-on-Crouch. Set against this are the concerns raised by the Council about the design of the dwellings, particularly on plots 4 and 5, to which I attribute only very limited weight. The Council considers the proposal to be satisfactory in relation to all other planning issues and I have no reason to disagree. The proposal would be compatible with the development plan taken as a whole.
17. The Council cannot currently demonstrate a five-year housing land supply. As such, the presumption in favour of sustainable development at Paragraph 11(d) of the Framework is engaged. The most important policies for the appeal proposal are Policy D1 on design and those to do with housing provision. The former is broadly compatible with the Framework, but the latter can be regarded as out-of-date, due to the housing shortfall. Paragraph 11(d)(ii) falls to be considered. Any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.
18. There are no reasons for taking a decision other than in accordance with the development plan.

Conditions

19. A planning condition is necessary to list the approved plans in the interests of certainty. Whilst development has progressed to an advanced stage in relation to a later permission, I have included the statutory condition relating to the commencement of works as the appeal proposal differs in some respects from that under construction. Other conditions suggested by the Council, if the appeal is to be allowed, are unnecessary as the issues have been covered by planning conditions relating to the scheme under implementation. I have not included the condition to remove permitted development allowances as the proposal relates satisfactorily to the surrounding area and the Council has not articulated exceptional circumstances to depart from Government guidance on this matter.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

Rory MacLeod

INSPECTOR