



Appeal Decision

Site visit made on 1 July 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/X1545/W/23/3326602

53 Market Hill, Maldon, Essex CM9 4QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Martin Fuller against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/22/01096.
 - The development proposed is new build 2 bedroom house.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (Framework) was revised in December 2023. The main parties have been able to raise any implications of this during the appeal process and, moreover, the changes are not relevant to the key issues in dispute. Therefore, I have not sought further views on this matter.

Main Issues

3. The main issues are:
 - whether the site would be an appropriate location for housing in respect of flood risk;
 - the effect of the proposal on the character and appearance of the site and the surrounding area, including the Maldon Conservation Area (CA);
 - whether the proposal would provide a satisfactory standard of accommodation for prospective occupiers in respect of private amenity space provision; and
 - the effect of the proposal on highway safety in respect of demand for off-street parking.

Reasons

Flood risk

4. The site is located in Flood Zone 3 and thus at high risk of flooding. Section 14 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is achieved through the application of the sequential test, which aims to steer development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites in areas with a lower risk of flooding. Following the sequential test, an exception

test may also need to be applied, depending on the potential vulnerability of the site and the type of development proposed. However, such considerations are only relevant when it is not possible for development to be located in areas with a lower risk of flooding. Policies D5 and S1 of the Maldon District Approved Local Development Plan (LP) are broadly consistent with the Framework's approach to flood risk.

5. I have not been provided with evidence which demonstrates that the sequential test has taken place and that there are no suitable alternative sites for the development with a lower risk of flooding. The proposal therefore cannot pass the sequential test, and there is no need to consider flood risk any further.
6. The appellant argues that the sequential test is not suitable for the proposal as the site is smaller than 0.25 hectares. However, neither the development plan nor the Framework indicate that the sequential test is unnecessary in such circumstances. It is also put forward that the proposal would feature mitigation including a sacrificial ground floor and flood resilient materials, and be safe for its lifetime, but these matters do not address the need for the sequential test to be passed in the first instance.
7. There is insufficient information before me to conclude that there are no reasonably available sites for the development in areas with a lower risk of flooding than the appeal site. The proposal therefore fails to demonstrate that the site is appropriate for housing having regard to flood risk. It fails to comply with LP policies D5 and S1 and section 14 of the Framework, which require that development is steered towards areas with the lowest risk of flooding.

Character and appearance

8. The site includes a shared access drive from Market Hill, hardstanding described as a shared access yard for 51 and 53 Market Hill, a car port attached to a garage, and garden land with a few small trees thereon. It is adjacent to a car park that is around one metre higher than the garden. A public footpath runs along and beyond the drive beside the River Chelmer. There is also a footpath on the opposite side of the river.
9. The area features buildings of varying ages, styles and designs. No 51 is a black weatherboarded 2 storey house, whereas No 53 is a roughly U-shaped yellow brick bungalow. Both are unassuming dwellings that face the river. The car park serves a small contemporary housing complex that includes a 4 storey building sited on a corner close to the highway and a bridge over the river. In contrast, principally historic properties front Market Hill as it climbs towards the town centre, while the area beside the river was reportedly once a wharf which includes an assortment of historic and modern buildings.
10. While the CA includes a relatively large portion of the town, it nevertheless features many historic properties like those fronting Market Hill, and its northern extent is largely informed by the river. Its special interest and significance as a whole are derived largely from its historic townscape, which includes riverside development. The site makes a limited contribution to the CA insofar as it provides space to riverside housing that does not compete with the mix of old and new buildings on the hillside in the CA, which are best appreciated from the riverside footpaths.

11. The proposed 3 storey detached house would have a similar design to the adjacent modern housing, including a brick faced ground floor, projecting, rendered and weatherboarded upper storeys with French doors and balconies, and a pitched and tiled roof. The proposed dormer would not be notably larger than those found elsewhere in the CA, and its zinc cladding would befit the aesthetic of this part of the riverside.
12. Additionally, the development would be an appropriate size and height, by providing a transition in scale between the large 4 storey building and the modest size and height of No 51. Although there would be limited landscaping around the house, other riverside buildings feature little or no landscaping, and relief to the built form would be provided by the adjacent car park and the set back position of Nos 51 and 53. Accordingly, the house would not appear as cramped 'backland' development, but a sensitively designed riverside scheme which is compatible with its surroundings and its hillside backdrop. Furthermore, the Council has not objected to the removal of the car port or trees on the site despite being in a CA, and there are no obvious reasons indicating that I should find otherwise.
13. The proposal would therefore be compatible with the character and appearance of the site and the surrounding area, and the CA would be preserved. In these respects, it accords with LP policies D1, H4 and S1 and sections 12 and 16 of the Framework, which protect local context and the historic environment, provide criteria for infill schemes, and promote the effective use of land.

Standard of accommodation

14. The occupiers of the proposed house would benefit from around 17 square metres of practically usable, dedicated garden space, as the other land within the site would be used principally for access, parking or storage purposes. A total of 4.5 square metres of additional outside space would be provided across two balconies. The garden and the balconies would have limited privacy due to their proximity to the drive, yard and public footpath, but would nonetheless be suitable for activities such as sitting out and drying clothes.
15. The Maldon District Design Guide Supplementary Planning Document suggests that a minimum of 50 square metres of outdoor amenity space should be provided for 2-bed dwellings. However, this is a guidance document which acknowledges that the quality and quantity of existing provision in the wider area is a relevant consideration. The site is a short distance from the town centre and the occupiers would be able to readily access its open spaces, as well as those along the river nearby. In that context, the proposed amenity space would be sufficiently private, large and usable to meet the needs of many potential occupiers, especially those wanting to take advantage of living near the town centre.
16. Accordingly, the proposal would provide a satisfactory standard of accommodation for prospective occupiers in respect of private amenity space provision. It accords with LP policy D1 and section 12 of the Framework in terms of this main issue, which require that development provides sufficient and usable private amenity space and promotes health and well-being.

Highway safety

17. LP policies D1 and T2 promote highway safety in part by requiring that vehicle parking is provided having regard to the Council's adopted parking standards. The Vehicle Parking Standards Supplementary Planning Document sets out that 2-bed dwellings should feature a maximum of 2 car parking spaces. The site is a short distance from a range of services, facilities and public transport options in the town centre. Having regard to the site's accessibility, the proposed provision of one parking space is appropriate. Furthermore, there would not be highway safety issues if the occupiers were to own more than one car as Market Hill features restrictions preventing parking along it.
18. The proposal would seemingly entail the loss of space for parking for Nos 51 and 53, but there would be sufficient space for a small number of cars to be parked off-street there, which would be satisfactory given the area's accessibility, and the Council has not raised concerns regarding this matter.
19. Therefore, the proposal would not result in an increase in demand for on-street parking or lead to highway safety issues. In respect of this matter, it accords with LP policies D1 and T2.

Other Matters

20. The site is near the Blackwater Estuary, which is a Special Protection Area and Ramsar, and so a 'habitats site' as defined by Annex 2 of the Framework. Although it is unclear from the evidence, the site may also be in the zones of influence of other habitats sites. However, even if I were to conclude that there would be no adverse effect on habitats sites, this would constitute a neutral consideration rather than a benefit weighing in favour of the proposal.
21. Notwithstanding this, the proposal would contribute to housing supply in an accessible location. Furthermore, the Council has explained that there is a need for 2-bed dwellings in the district. There would also be economic benefits from the construction of the development and spending locally, and social benefits from community engagement. It is also put forward that the development would be energy efficient, with an air source heat pump proposed. However, the scheme's benefits attract limited weight given the small amount of housing proposed, and do not outweigh the identified conflicts with the development plan or the Framework.

Conclusion

22. The proposal is contrary to the development plan taken as a whole. Material considerations do not indicate that a decision should be reached otherwise than in accordance with the development plan. As such, it is not necessary that I consider the effect of the proposal on habitats sites, as such an assessment would have no bearing on my decision.
23. The appeal is dismissed.

Mark Philpott

INSPECTOR