



Appeal Decision

Site visit made on 25 March 2025

by **S J Warder BSc(Hons) MA DipUD(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 April 2025

Appeal Ref: APP/X1545/W/24/3351771

Land to rear of 47 High Street, Maldon, CM9 5PF

- 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 Ribow Properties Ltd against the decision of Maldon District Council.
 - The application ref is 24/00089/FUL.
 - The development proposed is demolition of an existing outbuilding, construction of a new 1 & 1/2 storey, 1 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) has been revised since the parties submitted their statements. However, the paragraphs relevant to this decision have not materially changed. Therefore, I consider that it was not necessary to seek further comments from the parties. Nevertheless, my decision refers to the paragraph numbers in the December 2024 version of the Framework.

Main Issues

3. The main issues are the effects of the proposal on:
 - the character and appearance of the area, including the Maldon Conservation Area (CA) and the setting of the Grade II listed building (LB) at 47 High Street;
 - the living conditions of future occupiers with particular regard to outlook, natural light and the amount and quality of outdoor amenity space;
 - the living conditions of neighbouring occupiers with particular regard to privacy;
 - European designated nature conservation sites.

Reasons

Character and appearance

4. The CA covers a large swathe of the town centre and includes built form in a variety of ages, styles and scales. While the medieval street pattern at the west end of the High Street has been largely preserved, the immediate vicinity of the appeal site, in Bull Lane, is characterised by utilitarian buildings and spaces as well as fairly recent development. As such, it makes a limited contribution to the

significance of the CA. Similarly, the significance of No 47 lies largely in its High Street frontage.

5. In this context, the unprepossessing appearance of the existing outbuilding on the appeal site makes a limited contribution to the significance of the CA or the setting of the LB at No 47. That said, its form and scale sit comfortably with its 'backland' location and maintain a respectful spacing from adjoining buildings, including the large rear projection at No 45.
6. The proposed building would be substantially taller and wider than the existing single storey outbuilding. By virtue of its appearance, entrance door and associated outside spaces, it would also be unmistakably viewed as an independent building. As such, the space around the new building, particularly the gap to No 45, would become cramped and the subservient character expected of a building in this backland location would be lost. In reaching this conclusion, I recognise that there are other residential properties in Bull Lane. However, they do not take the form of outbuildings behind principal buildings. While the proposed building would be set back a reasonable distance from Bull Lane, these detrimental effects would be apparent in public views.
7. Consequently, I find that the proposal would have a harmful effect on the character and appearance of the area. It would, therefore, conflict with policies S1, D1 and H4 of the Maldon District Local Development Plan (DP). Among other things, these policies require development to respect and enhance the character and local context and make a positive contribution in terms of height, size, scale and form. Nor would the proposal accord with Framework paragraph 135 to the extent that it has similar aims.
8. I have had regard to the duties under sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of CAs and LBs. Nevertheless, given the minor contribution which the appeal site makes to the significance of the CA and the setting of the LB, the effect identified above would not extend to harm to those heritage assets.

Living conditions of future occupiers

9. I have already referred to the cramped spaces around the proposed dwelling. The height and proximity of the rear elevation of No 47 and the flank wall of the projection at No 45 would unduly restrict outlook from the windows in the rear and north side elevations of the proposed dwelling. These relationships would also limit the amount of natural light reaching the rear and north side windows. The outlook from, and natural light to, the windows in the other elevations would be limited by their size or high level positioning.
10. Policy D1 of the DP requires residential proposals to provide sufficient and usable amenity space. It is supported by the Maldon District Design Guide Supplementary Planning Document design principle C07 which sets out a minimum standard of 50sqm for one and two bedroom dwellings. The appeal proposal would provide less than 16sqm of outdoor amenity space split between two areas. Both would be overlooked at close range by neighbouring occupiers and their size and locations would not be conducive to activities such as sitting out, clothes drying or external storage.

11. The rear space would also be close to an outside toilet. As such, the proposed amenity areas would fall well short of the required quantitative and qualitative standards, even allowing for the site's town centre location.
12. Overall therefore, I find that the proposal would not provide adequate living conditions for future occupiers due to deficiencies in the availability of outlook and natural light afforded by the windows and the amount and quality of outdoor amenity space. The proposal would, therefore, conflict with DP Policies S1, D1 and H4 insofar as they require high quality residential development which provides sufficient, usable outdoor amenity space. It would also be contrary to paragraph 135 of the Framework which seeks a high standard of amenity for future users.

Living conditions of neighbouring occupiers

13. The rear elevation of the proposed dwelling faces the rear elevation of No 47 at a distance of some 8m. The Council's evidence, which is not disputed by the appellant, indicates that windows in the rear elevation of No 47 serve a flat. While the proposed first floor rear window would be fitted with louvres, it has not been adequately demonstrated that this would prevent direct horizontal views out at close range towards the facing windows in No 47. The absence of an objection from the current neighbouring occupier does not overcome that concern.
14. On this basis, I consider that the proposal would lead to a loss of privacy for the occupiers of the neighbouring flat. As such, the proposal would be contrary to DP Policies S1, D1 and H4 insofar as they require high quality residential development which protects the living conditions of neighbouring occupiers. Paragraph 135 of the Framework also seeks a high standard of amenity for existing users.

European designated sites

15. The appeal site is within the zone of influence for the Essex Coast European Sites where the Council's Habitat Regulations Assessment has found that residential development is likely to have a significant effect on the interest features of the Sites. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) seeks financial contributions in mitigation of this effect. The appellant does not dispute the assessment, or the need for a contribution.
16. It was open to the appellant to pay the required contribution or submit a unilateral undertaking to secure its payment at the appeal stage. However, no evidence of either solution has been submitted. In the absence of payment of the compensation, the proposal would be likely to have a significant effect on the Essex Coast European Sites and would be contrary to DP Policy N2 which requires proposals to provide compensation for harm to designated sites.

Planning Balance and Conclusion

17. The proposal would provide a very limited, though welcome, gain of one additional dwelling in a sustainable location.
18. The appellant cites cases where infill development on tight urban sites in Maldon town centre has been approved and that such development can add vitality to redundant spaces. I have had regard to that potential benefit and recognise that the Framework (paragraphs 124 and 125) supports the effective use of land.

However, it also seeks to safeguard and improve the environment and ensure safe and healthy living conditions.

19. In this case, I consider that the harms to the character and appearance of the area, the living conditions of future and neighbouring occupiers and the harm to European designated sites outweigh the benefits of the proposal.

20. For the reasons given above the appeal should be dismissed.

S J Warder

INSPECTOR