



Appeal Decision

Site visit made on 2 September 2025

by **Sarah Dyer BA BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st October 2025

Appeal Ref: APP/X1545/C/23/3326903

Land at Mangapp View, 32b Green Lane, Burnham-on-Crouch CM0 8PT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Nathan Robert Swain against an enforcement notice issued by Maldon District Council.
 - The enforcement notice was issued on 3 July 2023.
 - The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref FUL/MAL/19/01020 granted on 27 November 2019.
 - The development to which the permission relates is the erection of detached 4 bedroom dwelling.
 - The condition in question is no. 2 which states that:
The development hereby permitted shall be carried out in complete accordance with approved drawings GREEN/01 A; GREEN/02 A; GREEN/03 B; GREEN/04 B; GREEN/05 B; GREEN/06 A; GREEN/07 A; GREEN/08 A and GREEN/09.
 - The notice alleges that the condition has not been complied with in that there has been an unauthorised deviation from the approved plans in respect of the detached garage erected to the front of the dwellinghouse on the Land.
 - The requirements of the notice are to:
 - a) Return the garage to compliance with the approved plans, in complete accordance with the drawings referenced at 3(a) above and set out in Appendix 1.
 - b) Remove all equipment, materials, paraphernalia, spoil and waste associated with the required remedial works set out in the preceding paragraph 5(a).
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the phrase 'within paragraph (a) of section 171A (1)' from Section 1 and its substitution with 'within paragraph (b) of section 171A (1)'.
2. Subject to the correction the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act (as amended).

The Notice

3. I have a duty to get the notice in order and the power to make corrections on the basis that such corrections do not give rise to injustice.
4. Section 173(1)(b) of the Planning Act 1990 (the Act) provides that the enforcement notice 'shall state...the paragraph of Section 171A(1) which applies'. The breach is alleged under paragraph (a) of Section 171A(1). This paragraph relates to the carrying out of development without the required planning permission. The correct reference is paragraph (b) which relates to a failure to comply with a planning

condition. Given the enforcement notice is clearly directed at a breach of condition this defect can and should be corrected provided that no injustice would occur. No injustice would arise to either party in this case and I shall make the correction.

Main Issue

5. The Deemed Planning Application (DPA) arising on ground (a) is to carry out the development subject to the planning permission without complying with the condition being enforced against. Thus it is akin to an application made under section 73A(2)(c) of the Act and it is not open to me to review any of the other conditions on the original planning permission as doing so would widen the scope of the notice.
6. On the basis of the Council's reasons for issuing the notice and the reasons for the condition which is the subject of the notice, the main issue is the effect of the garage on the character and appearance of the site and the surrounding area with particular regard to its footprint, scale and size and appearance.

Reasons

7. Mangapp View is a substantial detached house set back from Green Lane and is one of several new dwellings occupying infill plots between more established houses. Green Lane is a verdant country lane with mature hedging on either side punctuated by driveways serving individual properties. These driveways and the parking areas which are accessed by them provide views of the houses and garages or outbuildings between the houses and the lane.
8. There is some variation in plot size between that which accommodates Mangapp View and the other infill plots, but they all feature garages or outbuildings which sit forward of the dwelling. These vary in size and as a general rule the larger the plot the larger the garage/outbuilding.
9. As approved the detached garage serving Mangapp View was of a footprint, scale and size, and appearance which was well-related to the size of the plot. It would have allowed the house to be the dominant feature in views into the site and would have appeared subservient to it. This would have reflected the relationship of the garages/outbuildings on the other infill plots particularly the adjacent plot which forms part of the immediate context of the appeal site.
10. The appellant has started to construct a building on the site of the approved garage. It is partially constructed to the point that there are breeze block walls and roof trusses have been erected. I have been provided with plans of what the garage will look like once completed but, these do not include the details of the house in either plan form or elevation, unlike the approved plans.
11. The proposed garage has a significantly larger footprint than the approved garage. The eaves height of the proposed garage is higher than the approved garage, but it is the increase in the ridge height which results in the proposed garage having a much greater size and bulk. This combined with the increase in footprint would result in a garage which would be out of scale with the size of the plot, and, which, notwithstanding the taller eaves and ridge heights and greater massing of the house, would dominate the view of the plot from Green Lane. Furthermore it would not reflect the relationship of the garage and house on the neighbouring plot, No. 32c.

12. The external appearance of the approved garage reflected its function as a subordinate building on the plot with a double door, two dormer windows and a personal door and window in the gable ends. By contrast the proposed garage introduces a window in the front wall of the building and an additional dormer window. These features would result in the proposed garage being more prominent in the views into the site and it would no longer appear visually subservient to the house.
13. Additional native hedge planting and tree planting has been carried out to the site frontage and once mature this would have a screening effect. Furthermore, the garage would be completed using traditional materials with brickwork to match the house, weatherboarding and a plain clay tile roof. However, the effect of the hedge planting and the choice of external materials do not outweigh the harm which I have found in terms of the footprint, scale and size and appearance of the proposed garage.
14. The appellant cites other examples of outbuildings in Green Lane including at High House where he states that an outbuilding of comparable size to the proposed garage has been recently approved. The full details of that case have not been provided by the appellant. However, based on the photographs provided and my observations during the site visit, High House is located in extensive grounds and the outbuilding which has been built does not appear out of scale in its context. Furthermore the position of the outbuilding relative to High House does not dominate or impinge on views of the house in the wider setting from Green Lane.
15. The appellant also makes a comparison between the proposed garage and the garage which has been built at No. 32c. Full details have not been provided of the garage at No. 32c but the two buildings appear to be of a similar size. However, the neighbouring plot is much wider, its garage is more comfortably accommodated on the plot, and it does not dominate the view of the house from Green Lane.
16. There is also reference by the appellant to planning permission having been granted for the retention of the garages serving No. 34a and No. 34b which had been built 1.3m higher than as approved. Again there is limited supporting information, but these plots are significantly wider than the appeal site. The garages at No. 34a and No. 34b are sited so that they are subservient to the houses on the plots and they are not as dominant in the glimpsed views from Green Lane as the proposed garage.
17. The height differential between the approved garage and the proposed garage at Mangapp View is not as great by comparison to the change at No. 34a and No. 34b. Nevertheless, the effect of the increase has to be considered in relation to the individual site characteristics. It does not follow that a comparable or lesser height increase would be acceptable in a different context as is the case here.
18. The impact of the other garages/outbuildings in the vicinity of the site on the character and appearance of Green Lane, including the specific examples cited by the appellant, are not directly comparable to the proposed garage and do not justify a grant of permission which would allow its completion and retention.
19. The appellant likens the plan form, massing, scale and materials of the proposed garage to a small agricultural store/shed. He argues that such buildings are not incongruous in the area where they are often positioned close to, and having gable

ends, facing the road. There are examples of such buildings in the wider area however, they are not a feature of the immediate vicinity of the site. As such this reference does not weigh in favour of the appeal scheme.

20. The appellant has referred to the 'fallback position' which is to erect a garage as approved and there is a greater than theoretical possibility that this option would be taken if the appeal were not to succeed. However, for the reasons set out above the approved garage would not be harmful to the character and appearance of the site or Green Lane. Therefore, the fallback position in this case does not outweigh the harm that would arise from the proposed garage and does not justify the grant of planning permission on the DPA.
21. The appellant has also submitted plans to show how alterations could be made to the appearance of the building. However, as amended plans showing the development as a whole, which could be substituted for the approved plans have not been provided this does not present an obvious alternative.
22. For the reasons given above, the proposed garage would have a harmful effect on the character and appearance of the site and the surrounding area with particular regard to its footprint, scale and size and appearance. The development is therefore contrary to Policies S1, S8 and D1 of the Maldon District Local Development Plan (2014-2019) which require that new development respects and enhances the character and local context in terms of height, scale and massing, maintains the rural character of the District and does not adversely impact the intrinsic character and beauty of the countryside.

Conclusion

23. The development conflicts with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it.
24. For the reasons set out above, I conclude that the appeal should not succeed. I shall uphold the notice, with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Sarah Dyer

INSPECTOR