



Appeal Decision

Site visit made on 6 November 2025

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2026

Appeal Ref: APP/X1545/W/25/3367607

85-87 High Street, Maldon, Essex CM9 5EP

- 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 Patten Homes Limited against the decision of Maldon District Council.
 - The application Ref is 24/00932/FUL.
 - The development proposed is Demolition of existing buildings and erection of 8 residential units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above I have used the description of development taken from the Council's decision notice and the appeal form, as opposed to the application form. I have also corrected a minor typographical error within the description of development, as confirmed by the appellant.
3. On 16 December 2025, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework). Whilst broad changes to the structure of the Framework are proposed as part of this consultation, these proposals could be subject to further change and can only be given very limited weight at this stage. It has therefore not been necessary to consult the parties on the changes, and in reaching my decision, I have had regard to the Framework published in December 2024.

Main Issues

4. The main issues are:
 - whether the future occupiers of the proposal would have acceptable living conditions, with particular reference to the provision of external amenity space, privacy, noise and disturbance, and access to car parking spaces;
 - the effect of the proposal on servicing of the retail unit and highway safety;
 - the effect of the proposal on the character and appearance of the area, with due regard to the location of the site in the Maldon Conservation Area; and
 - the effect of the proposal on the living conditions of occupiers of 91 High Street, with particular reference to outlook and privacy.

Reasons

Living conditions of future occupiers

5. The appellant indicates that the external amenity spaces for Units 1 and 2, and Units 7 and 8 would be shared.
6. Those accessing the amenity space shared between Units 1 and 2 would have direct views into the ground-floor windows of Unit 1 from close range. Two of these windows serve the living and kitchen areas, which would be the primary habitable space for future occupiers. This would result in an unacceptable loss of privacy. Similarly, the shared amenity space between Unit 7 and 8 would be located adjacent to the lounge/kitchen window of Unit 7, allowing direct overlooking into that unit's main habitable area.
7. Outdoor space is often used for a common range of garden accessories including furniture for sitting out and washing lines. From the details before me, the amenity area shared between Units 1 and 2 would be limited in its extent, creating a narrow space tightly enclosed by the site boundaries. Consequently, it would not be an attractive area, and would have limited practical use for occupiers of the proposal.
8. I acknowledge that the appeal site is well located with access to the estuary, promenade, promenade park and the town centre, whilst the appeal site is generally constrained in size. The affected units are not family size. Nevertheless, I find that the scheme would not be delivering homes of high quality and that appropriate living conditions would not be provided for the future occupiers.
9. The Council indicate that the parking space assigned to Unit 1 would be approximately 50 metres from the dwelling. Whilst clearly not adjacent to the dwelling, this would not be a particularly excessive distance for future occupiers, particularly given the site's town centre location. It seems to me that future occupiers would be likely to access shops and services on the High Street by foot for many of their day to day needs, with vehicular trips being limited to less frequent, more substantial journeys.
10. In the absence of specific standards or guidance in relation to the distance of parking spaces from dwellings, I find that this relationship would not be unreasonable and would not be impractical for accessibility or amenity reasons for the occupiers of Plot 1.
11. It has been suggested that noise generated by the operation of the entrance gate mechanism, particularly during unsocial hours, could adversely affect the living conditions of future occupiers. However, I have no substantive evidence to indicate that a gate installed on a runner would cause a level of noise which would cause a significant level of harm to occupiers of the proposal.
12. The appeal site is located to the rear of 85-87 High Street, a two storey building in retail use. The appellant indicates that the appeal site would be used for servicing the retail unit. The appeal site's busy town centre location is exemplified by the mixture of nearby uses which include the large, busy Butt Lane public car park, church and retail units, all of which are likely to attract comings and goings and associated noise throughout the day. As a result, it seems to me that the servicing requirements of the retail unit would not cause harmful levels of noise to the occupiers of the proposal.

13. Nonetheless, due to the insufficient and impractical design of the amenity space, the proposal would result in an unsatisfactory living environment for future occupiers. As such, the proposal would be contrary to Policies D1 and H4 of the Maldon District Local Development Plan (2017) (LDP), insofar as they require that proposals provide sufficient and usable private amenity space, and protect amenity, including taking into account privacy.
14. The proposal would also not comply with the aims of the Framework which requires proposals to create places which promote health and well-being, with a high standard of amenity for existing and future users.

Servicing and highway safety

15. The appellant indicates that the appeal site would be used for servicing the retail unit. However, there is little substantive evidence regarding the servicing requirements such as the frequency, and likely hours of operation. Limited information has been provided on the size of servicing vehicles or the exact location within the site where servicing would occur. In the absence of this, it has not been demonstrated that vehicles could safely enter, unload, and exit the site without obstructing residential parking spaces or compromising pedestrian safety within the appeal site.
16. I have been referred to a servicing bay at the front of the retail unit on High Street that could be used. However, without further details on the servicing routine, it is unclear whether this alone would be capable of meeting the unit's servicing needs.
17. I note that the County Council Highways Service did not object to the proposal. However, their comments focussed on the proposed residential use. For the reasons outlined above, it is appropriate to consider the retail servicing needs. In any event, the above factors combined suggest that there is uncertainty that the future servicing arrangements would be feasible. Whilst vans are often used for household deliveries to residential properties, it seems to me that their dwell time, is likely to be shorter than that of a vehicle servicing a retail unit. Therefore it would likely cause less disruption.
18. I am satisfied that clear signage and demarcation of the parking spaces could be installed to prevent confusion and instances of residents' parking being used by other visitors to the retail unit.
19. The electric entrance gate to the appeal site would create a separation from the Butt Lane car park, which would be harmful to accessibility, including for emergency service vehicles. However, it has been put to me that a planning condition could ensure the omission of the entrance gate. I am in agreement that, had I otherwise been minded to allow the appeal, this matter could be appropriately addressed with a suitably worded planning condition.
20. The Council refers to the access to the appeal site being across the adjacent car park which is in third party ownership. This car park is in frequent use, albeit vehicles generally travel at very low speeds. Patrons parking their cars also navigate their routes through the car park to Butt Lane or Wenlock Way without the benefit of public footways. A pedestrian gate from the appeal site provides access in very close proximity to Wenlock Way, a pedestrianised alleyway that offers safe and convenient access to the High Street. For these reasons, it seems to me, that future occupiers would have safe access to the appeal site.

21. Nevertheless, the proposal would fail to comply with Policies D1, H4 and T2 of the LDP. Collectively, these policies require that new development should enhance the public realm and street scene, and ensure that the traffic impact of development can be suitably mitigated. The proposal would also fail to comply with paragraph 135 a) of the Framework which requires development to function well and add to the overall quality of the area.

Character and appearance

22. The appeal site is in use as an external sales, ancillary storage and servicing area linked to the retail unit. A variety of single storey outbuildings are arranged within the site, and a small parking area is provided to the rear, accessed from the large Butt Lane public car park. Metal palisade fencing lines the site boundaries to the car park, in combination with mature soft landscaping and trees.
23. The Maldon Conservation Area (CA) covers a large area 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 is largely dominated by the wide open expanse of the Butt Lane public car park. To the north-east of the site stand the historic, prominently gabled buildings that house the Baptist Church and its associated Sunday School, which are recognised as non-designated heritage assets. The array of outbuildings and open storage area within the appeal site, combined with the metal boundary treatment, give the appeal site a utilitarian appearance. As such, it makes a limited contribution to the significance of the CA.
24. Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Similar advice is contained within the Framework and Policy D1 of the LDP.
25. To the right of the appeal site, when viewed from the Butts Lane car park, is a prominent three-storey building with dormered roof-level accommodation. It addresses the car park and forms part of Wenlock Way, a modern development which includes an enclosed alleyway leading into the tighter-knit High Street area. Its architectural features include weatherboarding beneath the windows and infilled brick openings, described by the appellant as 'window tax features'.
26. The fairly tight knit layout of the proposal, incorporating a small separating alley, would create an intimate scale of development which would be an appropriate response to the site's backland location immediately to the rear of the fine urban grain of the High Street and adjacent Wenlock Way development. The two storey scale of the development would mediate between buildings on the High Street, the taller Wenlock Way development and the open expanse of the Butt Lane car park.
27. The proposal is articulated by gable features and a variety of traditional materials including weatherboarding and lead canopies above doors, creating a pleasing architectural rhythm. The northern elevation, fronting Butts Lane car park, would occupy a conspicuous position and be visible in wider views across the car park. Its facade, featuring a gable, front entrance, and projecting bay windows, would create an appropriately articulated elevation for this prominent location. Although not visible from public viewpoints, the southern elevation would form a matching bookend to the development, and its similar architectural treatment would provide a logical and cohesive design solution.

28. The 'window tax features' within the gabled facades would follow the vernacular found within Wenlock Way and would not be uncharacteristic architectural features. A single parking space, for use by Unit 2, would be parallel rather than perpendicular to the dwellings. However, this feature alone would not cause harm to the appearance of the proposal.
29. Elevational drawings of the electric entrance gate and 2.1 metre black aluminium boundary fence are not included within the submitted evidence. These are likely to be visually harsh and intrusive features. However, the main parties are in agreement that a planning condition could control the design of the boundary treatments. It has also been put to me that a planning condition could ensure the omission of the entrance gate. I am in agreement that, had I otherwise been minded to allow the appeal, these matters could be appropriately addressed with planning conditions.
30. In accordance with the statutory duty set out in the Act, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons given above I have found that the proposal would have a neutral effect on the CA and its character and appearance would be preserved.
31. Accordingly, the proposal would comply with the heritage and design aims and objectives of the Framework and Policies D1 and H4 of the LDP. Together these seek to protect the district's heritage assets and, amongst other things, to ensure that developments provide a high-quality design that contributes positively to local character.

Living conditions of neighbouring occupiers

32. The adjoining residential property to the east is referred to by the Council as 91 Butt Lane, whilst the appellant confirms that it is known as 91 High Street (No 91). It is a two storey dwelling, located to the rear of the High Street.
33. I have been directed to the Maldon District Design Guide Supplementary Planning Document (2017) (SPD). This states that, where new development backs on to the rear gardens of existing housing, the distances between buildings should be a minimum of 25 metres.
34. The Council indicate that Unit 7 would be located approximately 9 metres from the shared boundary with No 91 and a further 12 metres from No 91's nearest elevation, equalling a 21 metre separation between the buildings. Although this is less than the 25 metres referred to in the SPD, the main parties agree that No 91 does not have windows serving habitable rooms on its elevation facing the appeal site. Consequently, there would not be a loss of privacy to the occupiers within No 91's internal areas.
35. The first and second floor windows within Unit 7 would enable views towards and into No. 91's rear garden area. However, my attention has not been drawn to a recommended separation distance where windows overlook shared boundaries. In this instance the boundary is screened by mature vegetation and the roof of No 91's garage. Whilst the garden would be somewhat overlooked by the proposal, this is not uncommon in a town centre location such as this, and the relationship would not cause significant harm as a result of overlooking.

36. In order to reduce its height and bulk, the top storey of Unit 7 would be within the roof. The eaves of the proposal line would also not be particularly high and its rear roof would pitch sharply away from the boundary with No 91. Whilst it would have a greater visual impact than the existing outbuildings in this location, when viewed from the rear external areas of the neighbouring property, the development as a whole would not be overly oppressive to the extent that it would significantly harm the level of outlook for occupiers. In coming to this view, I have taken into account the height and elevational design of the proposal.
37. The activities associated with eight residential properties, such as routine comings and goings, including by car, and normal day-to-day domestic activities would be typical of a town centre area. It seems to me that this would not be of a scale or intensity that would result in unacceptable disturbance to the neighbouring occupiers, particularly given the site's busy location.
38. Consequently, the proposed development would not have an unacceptable impact on the living conditions of neighbouring occupiers. Therefore, in this respect, it would comply with Policies D1 and H4 of the LDP which require that new development should not result in loss of amenity to existing residents. Neither would it be contrary to the aims of the Framework which requires proposals to create places which promote health and well-being, with a high standard of amenity for existing users.

Other Matters

Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS)

39. The appeal site lies within the 'Zone of Influence' of one or more European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). As a result of the location of the site and the nature of the development proposed, the development could potentially have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure.
40. The Conservation of Habitats and Species Regulations 2017 (as amended) requires, where a project is likely to result in a significant effect on a European site, the competent authority to make an Appropriate Assessment (AA) of the implications on the integrity of the site.
41. The appellant does not dispute the need for contributions towards the RAMS, and has provided a Unilateral Undertaking with the appeal which secures a per dwelling contribution to fund mitigation. If I had come to a different conclusion, it would have been necessary for me to undertake the AA and consult with Natural England in order to be certain that the integrity of the protected sites would not be adversely affected. However, as I am dismissing the scheme for other reasons this has not been necessary.

Planning Balance and Conclusion

42. The appellant states that the Council cannot currently demonstrate a five-year housing land supply as required by the Framework, and indicates it has a supply equivalent to 2.7 years. This has not been disputed by the Council. Consequently, there is a shortfall in housing land supply, and paragraph 11(d) of the Framework is engaged.

43. Paragraph 11(d)(ii) of the Framework states that, in such circumstances, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This includes having particular regard to key policies for making effective use of land and securing well-designed places.
44. The Framework seeks to boost housing supply and recognises the important contribution that small sites can make. In terms of the scheme's benefits, it is the case that the additional residential units are proposed in a location with good access to surrounding facilities and services. I recognise that the proposal would provide eight dwellings reasonably quickly due to the small scale of the scheme. I have considered that the Framework seeks to significantly boost the supply of housing and recognises the importance of small sites in meeting the housing requirement of the area. The proposal would provide a good mix of different sized dwellings which would meet different housing needs, as supported by paragraph 61 of the Framework. Therefore, whilst only proposing eight dwellings, the benefit to supply should be regarded as an overall moderate social benefit.
45. The proposal would create temporary employment opportunities during construction and there would be associated spending, including Council Tax, in the local area on subsequent occupation of the dwellings. The main parties agree that the proposal would achieve a 10% Biodiversity Net Gain. It would also enhance natural surveillance of the immediate area. The removal of the existing boundary fencing would be beneficial to the character of the area subject to the finalised design of the replacement boundary treatment. It has been put to me that the existing retail unit has excess space to the rear, albeit I have no substantive evidence in this regard. Collectively, I afford these benefits limited weight.
46. However, it has not been demonstrated that the proposal could ensure satisfactory living conditions to the future occupiers. This is a matter of fundamental importance and attracts very significant weight against this scheme. The Framework expects development to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policies D1 and H4 of the LDP are therefore consistent with the Framework.
47. It has also not been demonstrated that satisfactory servicing arrangements for the retail unit could be secured. Given that the Framework requires development to function well and add to the overall quality of the area I consider that this is a matter that attracts weight against the appeal scheme.
48. Overall, the policy conflicts and the harm from the appeal scheme, significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole. The proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

B Pattison

INSPECTOR