

Appeal Decision

Site visit made on 7 February 2017

by J Dowling BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 February 2017

Appeal Ref: APP/X1545/D/17/3166724

48 Maldon Road, Great Totham CM9 8NL

- 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 Mr Andrew Porcas against the decision of Maldon District Council.
 - The application Ref HOUSE/MAL/16/00921, dated 12 August 2016, was refused by notice dated 9 November 2016.
 - The development proposed is erection of approximately 1800mm high fence along the boundary of the property.
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Decision

1. This appeal is dismissed.

Procedural Matter

2. I observed at my site visit that the fence that is the subject of this appeal has been erected on site. I have therefore considered the appeal on the basis that retrospective planning permission is sought for the scheme.
3. No 48 is a single storey building that has recently been converted from a café to a house¹. Whilst I have not been provided with a copy of the decision it would appear that planning permission for the conversion was granted subject to a number of conditions including one that required that the existing accesses to the site were closed. The appellant advocates that the instillation of the fence was part of the works to close up these accesses. However, whilst this might be the reason for the proposal, an application for planning permission rather than to discharge conditions was submitted, and I have considered the appeal on this basis.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. I observed at my site visit that the properties along Maldon Road have a variety of different boundary treatments including mature hedging, post and rail fencing, low walls and picket fencing. The use of these materials informs the character and appearance of the road and contributes positively to the character of the village.

¹ LPA reference 15/00874/FUL

6. The appeal site is located on the junction of Maldon Road and Captains Wood Road. The proposal is for a close boarded fence of medium height which is located in close proximity to the back edge of the footpath and extends along the front and side boundaries of the site. Due to the corner position the site is exposed to wider views from the surrounding area and owing to the location, length, colour and design the fence is visually prominent within Maldon Road. As a result the fence appears incongruous and out of character with the established streetscene as it does not reflect the boundary treatment found on adjoining properties.
7. I note that the appellant has suggested that trees and hedges could be planted along the length of the fence in order to soften its appearance. However, whilst I consider that this would be more in keeping with the character and appearance of the area it would require the removal and relocation of the fence as from what I observed on site as currently laid out there would be insufficient space between the fence and the back edge of the footpath for plants to grow. As a consequence it would result in a materially different scheme to the one before me and therefore is not a matter that could be managed through the use of a condition.
8. The appellant has referred to a number of similar fences in the area. However, they are in a different location and are perceived in a different context and as a result they do not lead me to a different view on this case.
9. I note the comments with regards to the need for the fence given the change of use of the building. However, whilst I agree that some form of boundary treatment does need to be provided to protect the living conditions of the occupants of No 48, this need is not sufficient to outweigh the harm to the character and appearance of the area that results from the proposal.
10. Finally I am aware that the Parish Council supported the proposal and that there are no objections in terms of highway safety. However, for the reasons outlined above, and having regard to all other matters raised, the appeal adversely affects the character and appearance of the streetscene contrary to policy BE1 of the Maldon District Replacement Local Plan (2005) which requires that development proposals will be permitted if they are compatible with their surroundings and harmonise with the general character of the area. The purpose of this policy is consistent with the National Planning Policy Framework (the Framework) which advocates that development of poor design which fails to take the opportunities available for improving the character and quality of an area, should be refused.
11. The Council is in the later stages of drafting a new Local Plan, the Maldon District Pre-Submission Local Development Plan (the eLP). The Council have cited policy D1 of the eLP in their reason for refusal. However, as the eLP is currently in the process of being tested through examination having regard to the advice provided in the Framework² in coming to my conclusion I have attached limited weight to this policy.
12. For the above reasons, this appeal should be dismissed.

Jo Dowling

INSPECTOR

² Paragraph 216 of the National Planning Policy Framework (2012)