
Appeal Decision

Site visit made on 23 May 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/X1545/W/17/3169518

16 Fambridge Road, Maldon, Essex, CM9 6AF

- 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 Miss Deborah Howes against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/01218, dated 16 October 2016, was refused by notice dated 17 January 2017.
 - The development is described as “a temporary structure of cake fridges in the garden (a hobby not a business) when not in use the fridges are shielded by a sympathetically designed low level fence allowing full overview of the property at all times. As the fridges are invisible when not open I considered temporary.”
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The cake fridges have already been installed and retrospective planning permission is sought. I have considered the appeal on this basis accordingly.
3. The Council’s decision notice refers to Policy D1 of the emerging Maldon District Pre-Submission Local Development Plan (MDLDP). The MDLDP is at an advanced stage and has been subject to recent examination hearings. However, as I do not have evidence before me as to whether there have been any significant objections to the above policy and the Inspector’s report has not yet been published, having regard to the advice provided in the National Planning Policy Framework (the Framework)¹, I give this policy in the emerging Development Plan limited weight as a material consideration.

Main Issue

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

Reasons

5. The appeal site comprises of No. 16 Fambridge Road (No.16) a semi-detached two storey dwelling set back above the level of the road with steps up to the front of the property. It forms the end property on a row of semi-detached dwellings in a primarily residential area on the edge of Maldon Town Centre

¹ Paragraph 216 of the National Planning Policy Framework (2012)

with a school on the opposite side of the road. The semi-detached properties are set back from the road behind small front gardens/driveways, typically bordered by low boundary walls with some planting. To the north of No. 16 is a set of steps giving access to the public footpath and beyond this is a listed residential property at No. 14. This listed building is set back some way from the road behind significant mature landscaping and trees that extends up to the boundary with No.16.

6. The cake fridges are sited within the front garden space of No 16 positioned above the low front boundary wall so they can be accessed by customers from the pavement. The fridge units measure about 1630mm wide by 930mm high with a depth of 700mm with a small lean to roof and three window display chilled units. A foldable low white picket fence runs along the top of the front boundary wall, which I understand from the appellant's statement is folded back in front of the fridge units to obscure the fridges from public view when they are closed and not in use.
7. The appellant states that the cakes fridges have been redesigned in response to the Inspector's comments on the previous appeal at the property in 2016² where the Inspector indicated that no evidence had been presented that a less harmful scheme could not achieve the appellant's aims. I recognise that the low level white picket fence is not be out of keeping with the boundary treatment in the surrounding area and provides some visual containment when the fridges are closed. The appeal site is also be partially screened by the mature vegetation to the north of the site. However, the degree of visibility will vary according to the seasons and whether the fridges are open or not.
8. These shortcomings are exacerbated by the appeal site's prominent position that is visible from a number of public vantage points along Fambridge Road. The siting of the fridges on the frontage of the site at a higher level than the road accentuates its visibility and dominance in the streetscene. Thus, irrespective of the design approach, the prominence and the retail style appearance of the structure, as highlighted by the previous Inspector, is at odds with the prevailing residential character of the area and I see no reason to take a different view in respect of this appeal. I consider that the development, by virtue of its scale, siting and design, adversely harms rather than positively contributes to the character and appearance of the area.
9. I have had regard to the appellant's comments that the venture is a hobby and not a business and sells homemade goods to the local community. I note the appellant's comments that the venture is extremely popular, has widespread support in the local community and causes no harm to the amenities of local people. However, the benefits of the scheme do not outweigh the adverse effects to the area's character and appearance I have identified in this case.
10. I am also aware that the venture is extremely beneficial to the appellant for a medical condition she suffers from and I have considerable sympathy for the appellant's circumstances. However, although personal circumstances can sometimes justify a personal or temporary permission that would not be appropriate here where, in my view, a permanent fixed structure is in place and as such are matters to which I can attach only limited weight in making this decision.

² APP/X1545/W/16/3151942

11. Consequently, I conclude that the development has a harmful effect on the character and appearance of the area and conflicts with Policies BE1 and E8 of the Maldon District Replacement Local Plan (2005). These policies, amongst other things, seek to ensure that development that is compatible with its surroundings, harmonises with the general character of the area and only permits the use of part of a dwelling for employment purposes where it is not visually detrimental to the character of the area. The purpose of these policies are consistent with the Framework that advocates high quality design and that development of poor design which fails to take the opportunities available for improving the character and quality of an area, should be refused.

Other Matters

12. A Grade II listed property at No. 14 Fambridge Road is located immediately to north of the appeal site. However, due to existing mature vegetation and separation distance between the appeal site and the listed building there is only limited inter-visibility. The development has a neutral material impact on the setting of the listed building. The setting is therefore preserved.
13. I have noted the issues raised by the appellant regarding the communication and the way in which the application was processed by the Council. However, these are not a material consideration to which I can attach significant weight in making this decision.
14. I have noted the objections from Maldon Town Council to the proposal. However, in light of my findings on the main issue of the appeal, my decision does not turn on these matters.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR