
Appeal Decision

Site visit made on 17 August 2021

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 2 September 2021

Appeal Ref: APP/X1545/W/21/3267110

Garage adjacent to 2B Gate Street, Maldon, Essex CM9 5QW

- 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 Chris Dales against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/01199, dated 19 November 2020, was refused by notice dated 14 January 2021.
 - The development proposed is: "Conversion of existing garage building to provide 1-bedroom dwelling".
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in the appeal are:
 - whether the proposed conversion would provide acceptable living conditions for future occupiers, having regard to matters of size, outlook, natural light and amenity space;
 - and whether the lack of on-site car parking would be acceptable.

Reasons for decision

Living conditions of future occupiers

Size of the accommodation

3. According to the Council, the residential unit that would be created by the proposed conversion would have an internal floorspace of just over 51 sq m. The appellant suggests that the area would be 60 sq m. However, neither party has provided any detailed breakdown of their measurements, or the method of calculation. I therefore have no basis for preferring one of these figures over the other.
4. On the Council's assessment, the floorspace would fall short of the 58 sq m that would be required to meet the minimum requirement for a 2-person, 2-storey dwelling under the Nationally Described Space Standards (the NDSS). But the NDSS is not mandatory, and can only be brought into effect where there is a relevant policy in the development plan. In Maldon, there appears to be no such policy. Nor is there any evidence of any other locally-based standards relevant to the issue of dwelling size or floorspace.
5. In the present case the proposed dwelling would provide what seems to me a good-sized living/dining and kitchen area on the first floor. At ground floor

level there would be a reasonably-sized double bedroom, with a more than adequate shower room/wc, plus a fairly generous internal lobby area and a hallway/ stairwell with a storage cupboard. This size and configuration of unit might not necessarily satisfy the requirements of all potential occupiers, but different occupiers have differing priorities. In my view there seems no reason in principle why a unit of the size now proposed could not provide an acceptable home for many one or two-person households wanting a town centre location.

6. In the absence of any clear evidence to the contrary, I consider that the proposed dwelling would be acceptable in terms of its size and floorspace.

Amenity space

7. The building in question has no external curtilage, and thus would not provide any garden or other on-site amenity space. In this respect the development would not accord with the adopted Maldon Design Guide Supplementary Planning Document (SPD).
8. I appreciate the importance and value of good quality private amenity space, in terms of the contribution that this can make to health and well-being. But given the town centre location, the occupiers would have easy access to nearby open spaces, public seating areas, outdoor cafes and the like. Again, this might not meet the needs of all potential occupiers, but for others it would be an acceptable compromise in return for the advantages of proximity to the town centre's facilities.
9. Having regard to all the circumstances, I am not persuaded that the lack of on-site private amenity space is such a serious shortcoming as to justify the refusal of planning permission in this particular case.

Outlook and light

10. The proposed living, dining and kitchen area would have two large windows to the front, which would provide a pleasant outlook. This space would also have several roof lights and a high-level window to the rear, and together these would ensure good levels of natural daylight.
11. The bedroom however, would have no external windows, and therefore no outlook of any kind. Even if the room were to have no other shortcomings, it seems to me that the lack of outlook, in what would be one of only two habitable rooms, would result in living conditions at the new dwelling being severely deficient.
12. In addition to this, the only direct route for natural light to reach the room would be via a first-floor lightwell, lit by a small window in the side-facing lower slope of the gambrel roof. There would be the potential for some additional 'borrowed' light from the internal lobby, via what is described as a semi-translucent panel, but this would need to be opaque, for reasons of privacy, and as such it seems likely that the amount of light gained from this source would be small. In the absence of any evidence to the contrary, it seems to me that the level of natural light realistically achievable in the bedroom would be likely to be wholly inadequate, necessitating the frequent use of artificial light during daylight hours.

13. As a result of this combination of lack of outlook and natural light, the bedroom would to my mind be a decidedly gloomy and oppressive space, incompatible with good living conditions.

Conclusion on living conditions

14. Although the proposed dwelling would be acceptable in terms of its size and the lack of amenity space, one of its main habitable rooms would have an unacceptable lack of external outlook. This would also be further exacerbated by the severely restricted level of natural light to that room. Overall therefore, the development as a whole would fail to provide acceptable living conditions for its future occupiers.
15. As such, the development would not achieve the high standards of design that are required by Policy S1 of the Maldon District Local Development Plan (the MDLDP), adopted in July 2017. It would also fail to provide a high standard of amenity for future users, as required by paragraph 130(f) of the National Planning Policy Framework (the NPPF).

Car parking

16. MDLDP Policies D1 and T2 seek, amongst other things, to ensure that developments provide sufficient car and cycle parking space, having regard to the local Vehicle Parking Standards SPD, adopted in November 2018. In the present case, the SPD would require a minimum of one car space, but as the building has no external curtilage, the proposed new dwelling would not be able to provide any off-street car parking.
17. I appreciate the Council's concerns to avoid any problems of obstruction, congestion or highway safety. However, I saw on my visit that Gate Street has double yellow line markings along almost the whole of its length, indicating that parking or waiting on the highway is not permitted at any time. The only exception is a short section where a parking bay is provided for about four cars, subject to a maximum stay of one hour, with no return for two hours. I also saw that similar restrictions, with either double or single lines, and limits of either one or two hours on the few permitted spaces, apply throughout the adjoining and nearby streets within a fairly wide radius.
18. Given the historic nature of most of these roads, with narrow carriageways and often without footways, it seems likely that these restrictions throughout the area will be self-policing to a large degree. At the time of my visit, no widespread issues of non-compliance were evident. But in any event, there seems no reason why the restrictions in place should not be enforceable by law, if necessary.
19. Consequently, it seems to me that in this part of Maldon town centre there is little scope for any on-street parking. In these circumstances, even if the future occupiers of the development were to keep a car, it seems unlikely that it could be parked on-street anywhere in the vicinity, other than for occasional purposes such as loading and unloading. Given the restrictions in force, any parking or waiting for those kind of purposes would of necessity be likely to be brief, and any inconvenience would thus be temporary and limited. There is no evidence that this type of usage would be likely to cause any significant problems, or add noticeably to any that already exist.

20. In this context, I note that the existing use of the building is said to be for storage, and it seems likely that this use would generate at least some vehicular traffic in any event. There is nothing to suggest that any occasional on-street parking associated with a residential use would significantly exceed that which could arise from the existing use.
21. Self-evidently, the location is one where car ownership would not be essential. Most of the town's facilities are within walking distance. Public transport is available close by. The submitted plans show that a bicycle could be stored in the internal lobby without unduly impeding access. Notwithstanding the Council's minimum standards, it seems to me that the location is one where in principle a car-free lifestyle would be likely to be both practical and attractive for many potential occupiers.
22. In the NPPF, paragraph 105 encourages developments that take opportunities to maximise sustainable modes of transport. In the present case, for the reasons already identified, I consider that the proposed development would do so. Paragraph 111 also advises that proposals should only be refused on highway safety grounds where the impact would be severe. Here, there is no evidence of such an impact.
23. In all the circumstances, I find no convincing evidence that the lack of off-street parking for the proposed new dwelling would lead to any adverse impacts. Consequently despite the apparent conflict in this respect with Policies D1 and T2, and the Vehicle Parking Standards, I conclude that a refusal of permission on this ground is not justified.

Other matters

Impact on protected sites

24. The Council's Refusal Reason No 3 (RR3) relates to the development's potential impact on designated sites of international importance for nature conservation, when considered in combination with other new housing in the area. However, there appears to be no disagreement that any such impact could be adequately mitigated by a financial contribution to the Council's draft Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy. Nor is there any apparent reason to doubt that a legal obligation to that effect could have been entered into, prior to any grant of permission, had the proposed development been acceptable in all other respects. In the present case, in the light of the conclusions that I have come to above, on the issue of future occupiers' living conditions, it is not necessary for the purposes of this appeal to consider RR3 any further.

Effects on the Conservation Area

25. Although the appeal site lies within the Maldon Conservation Area (the CA), the proposed conversion would involve only minor changes to the building's external appearance. I agree with the Council that these would cause no harm to the building's character, or to the CA's significance.
26. I note that the Council's conservation officer regards the appeal building as one that contributes positively to the CA, and again I agree. In providing a viable use for the building, the appeal proposal would potentially help to secure its long-term future, and to my mind this should in principle be counted as a

benefit, albeit tempered in the case of the present proposal by the shortcomings that I have identified with regard to living conditions.

27. In addition, as the conservation officer points out, the proposed conversion offers a potential opportunity to secure some minor enhancements to the building, particularly in respect of the roof covering, which is currently formed of unsympathetic concrete tiles. However, the application does not appear to propose any change in this respect, and thus fails to secure this potentially significant enhancement. This does not seem to me to be a matter that could be secured by condition. Consequently, although a residential conversion may have the potential to offer positive benefits to the historic environment, in the scheme as it currently stands any such benefits are, at best, limited.
28. As a result, whilst the development would preserve the CA's character and appearance, it would fall short of offering any positive enhancement. In the final planning balance, the preservation of the CA weighs only neutrally; it adds nothing to the case in favour of the appeal.

Planning balance and conclusion

29. For the reasons explained above, I have found that the proposed conversion scheme would be acceptable in terms of the new dwelling's size and its lack of amenity space and car parking. But in terms of the lack of outlook and natural light to the bedroom, it would fail to provide acceptable living conditions, contrary to MLDLP Policy S1. No policies have been identified which give any positive support to the proposal. The scheme therefore conflicts with the development plan. Accordingly, having regard to the provisions of the relevant legislation¹, planning permission must be refused unless material considerations indicate otherwise.
30. The proposed development would add to the area's housing stock, and would help to preserve a building that makes a modest but positive contribution to the Maldon CA. To my mind however, these benefits are significantly and demonstrably outweighed by the unsatisfactory living conditions that the new unit would offer to its future occupiers. No other material considerations of any significance have been identified. In total therefore, the matters before me do not indicate any decision other than in accordance with the development plan.
31. The appeal is therefore dismissed.

J Felgate

INSPECTOR

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004