

Appeal Decision

Site visit made on 25 October 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL
an Inspector appointed by the Secretary of State

Decision date: 06 December 2022

Appeal Reference: APP/X1545/D/22/3305550
5 Tenterfield Road, Maldon CM9 5EN

- 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 Davis against the decision of Maldon District Council.
 - The application (reference HOUSE/MAL/22/00456, dated 22 March 2022) was refused by notice dated 23 June 2022.
 - The development proposed is described in the application form as “extension to the rear ground floor with changes to roof design and a first floor extension to the rear”.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to the rear ground floor with changes to roof design and a first floor extension to the rear, at 5 Tenterfield Road, Maldon CM9 5EN, in accordance with the terms of the application (reference HOUSE/MAL/22/00456, dated 22 March 2022), subject to the conditions set out in the attached Schedule of Conditions.

Preliminary points

2. The description of the proposed development that was given in the application form is clearly incomplete, since it refers only to a “first floor rear extension”, while the proposed works as shown on the application drawings include a ground floor extension. In the banner headline above, therefore, I have adopted the description that is included in the Council’s decision notice and in the appeal form, both of which more clearly identify the proposed development as “extension to the rear ground floor with changes to roof design and a first floor extension to the rear”.

Main issues

3. The first main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the host building and its surroundings. The second is the effect of the proposed development on the residential amenities of neighbours (whether unacceptable harm would be caused by overbearing appearance or overshadowing, specifically at number 3 Tenterfield Road).

Reasons

4. Maldon is a busy town that has grown up on the banks of the River Chelmer. The historic and commercial centre has grown up along the High Street, which provides for a range of commercial and retail premises in buildings of different ages and styles. The central part of Maldon is designated as the Maldon Conservation Area.
5. Tenterfield Road is a quiet residential road, to the south of High Street. The road is primarily residential in character, although there is more variety in buildings on the northern frontage. On the southern frontage the houses are closely built up, for the most part, and Number 5 is the second of a terrace of modest houses with south facing gardens, near to the junction with Wantz Road and, in turn, to High Street.
6. The terrace of which number 5 Tenterfield Road forms part is constructed of brickwork under a long slate roof and it has retained a degree of consistency in the front elevation, although some changes have been made over the years (including rendering and painting a small number of the houses).
7. The houses in the terrace were typically built with single storey projections at the rear, paired with the neighbouring property in an often repeated layout for such housing. Some of these have been little changed but others have been subject to significant extension and alteration.
8. It is now proposed that the rear of number 5 Tenterfield Road should be altered and extended, to add a large kitchen and dining room on the ground floor, with a small shower room above, attached to the rear elevation.
9. Provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant planning permission for development that would affect a conservation area. In such cases, decision makers are required to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas affected by development proposals.
10. Those formal requirements are reinforced by the 'National Planning Policy Framework', especially at Section 16, which emphasises the importance of conserving and enhancing the historic environment, though it also points out the desirability of putting a heritage asset to its "optimum viable use" as does the 'Planning Practice Guidance'.
11. The 'National Planning Policy Framework' also emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history (while not preventing appropriate innovation or change). The aim of achieving good design standards generally, includes protecting existing residential amenities and providing good standards of accommodation.
12. Policies in the Development Plan also reinforce the underlying principles that are established in the primary legislation and the 'National Planning Policy Framework'. Of particular relevance are Policies D1 and D3 of the 'Maldon District Approved Local Development Plan 2014-2029' (which is dated July 2017). Policy D1 is concerned with "Design Quality and Built Environment" and

it includes a range of design criteria, including the need to “protect the amenity of surrounding areas”. Policy D3 lays a special emphasis on the need to protect “Conservation and Heritage Assets”, including conservation areas. In addition, Policy H4 includes specific reference to design issues in the context of proposals for house extensions.

13. The existing house at number 5 Tenterfield Road is not large. On the ground floor, there is a lounge and dining room, with a separate kitchen and a bathroom (with a small lobby), projecting at the rear. A stair that rises from the dining room provides access to two bedrooms on the first floor (with no adjacent bathroom facilities).
14. The proposed rear extension would involve the removal of the old kitchen and bathroom and the construction of a new room to accommodate combined kitchen and dining areas. The existing dining room would be altered to provide a new internal bathroom, in the middle of the house. On the first floor, a small shower room would be added to the rear of the second bedroom.
15. The scheme would undoubtedly improve the accommodation available at the existing house. It would provide a large and obviously useful living space on the ground floor, together with a new accessible shower room attached to one of the existing bedrooms and a better internal layout in relation to the new bathroom on the ground floor.
16. The extensions would not materially affect the front elevation of the house but would have an impact at the rear of the property. The single-storey part of the extension would project further than the existing outshot (and that of its neighbour at number 7) and it would create a long flank wall to number 3, extending slightly more than seven metres along the boundary (according to the submitted plan). By contrast, the first floor shower room extension would be small in size and would have a pitched roof, more in keeping with the host building.
17. In architectural terms, however, the scheme would not be unduly dominant. The single-storey extension, though large in floor area, would be subservient to the original terrace, while the first floor extension would not be alien to the original building in its design, even though it would depart from the original, more coherent, gabled form of construction. In its context, at the rear of the terrace, the whole extension would preserve the character and appearance of the existing house and its setting in the Maldon Conservation Area.
18. The flank wall of the single storey extension would, however, have an effect on the living conditions of the occupiers of number 3 Tenterfield Road, to the east. The garden of that property faces approximately south but the new flank wall would overshadow the area nearest the house during the afternoon. The flat roofed extension would have an overall height on the boundary of 2.9 metres (as dimensioned on the drawing), which would be higher than a typical boundary fence but which would not be so oppressive as to be unacceptable in planning terms. Although there would be some overshadowing, the flank wall would not be so overbearing as to justify refusal of planning permission in this case.
19. Having considered the benefits of the scheme, which would create a useful addition to the local housing stock, I have concluded that the benefits of the

proposals outweigh the disadvantages. Thus, it would comply with the Development Plan as a whole and with national planning policies. Effectively, it would preserve the character and appearance of the Maldon Conservation Area.

20. In short, I am persuaded that the scheme before me can properly be permitted and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
21. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal), subject to modifications necessary, in my opinion, in the interests of clarity and enforceability. In particular, I have concluded that conditions are necessary to define the planning permission and to ensure that quality is maintained.
22. An additional condition is necessary to prevent the use of the new flat roof as a terrace or balcony, since that would give rise to an unacceptable intrusion on neighbours' privacy, as the Council has pointed out.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number H989/01 (Existing Plans and Elevations);
 - drawing number H989/02F (Proposed Plans & Elevations).
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
4. The roof area of the extension hereby approved shall not be used at any time as a storage area, balcony, roof garden or similar amenity area and no doorway or similar form of access to the roof shall be created from the first floor onto the roof.