



Appeal Decision

Site visit made on 7 August 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/H2265/D/23/3320088

50 Whiffen Walk, East Malling, West Malling ME19 6TZ

- 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 Robert Harris against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/22/02800/FL, dated 15 December 2022, was refused by notice dated 9 February 2023.
 - The development proposed is the removal of an existing hedgerow along the boundary of the property and replacement with a new brick wall with integrated close board fence panels and brick pillar (1.8m high, 5.5m long).
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The site is located in a residential area where properties are primarily set back with open frontages. Where side boundaries of properties abut the estate roads and their footways, red brick walls are prevalent. The boundary walls across the estate are distinctive, comprising attractive detailing within both the walls and the accompanying piers, contributing positively to the overall character of the area. There are very few examples of fences in the locality of the site, and on such occasions, these are set back from the highway and discreet within the street scene.
4. The proposal is to extend the existing side boundary wall through the erection of a low brick wall with fence panels set between brick piers. Whilst the piers and brick plinth would replicate the detailing on the existing walls, the fence panels would be discordant with the prevailing style of boundary treatments in the vicinity of the site. The introduction of fence panels, even if these are stained brown, would erode the established character of the area, which is derived partly from the distinctive boundary walls.
5. Whilst I note the photograph of a local fence provided in the appellant's statement, the appearance of this does not persuade me that the appeal scheme would be acceptable. The offer of soft landscaping would not address the harm identified as the area for planting is small and would not reliably mitigate the visual effect of the proposal. Even if it were effective, the retention of the landscaping cannot be guaranteed.

6. The proposed development would harm the character and appearance of the surrounding area. On this basis, I conclude that the proposed development would conflict with Policy CP24 of the Tonbridge and Malling Core Strategy (2007), Policy SQ1 of the Managing Development and the Environment Development Plan Document (2010) and the National Planning Policy Framework, which seek to deliver high quality design that respects local distinctiveness.

Other Matters

7. I acknowledge the intention to improve security at the appeal site alongside the suggestion for ecological mitigation. I also note the lack of any objections to the scheme. However, these elements would not outweigh the harm identified to the character and appearance of the area.
8. The appellant has suggested that a fence could be constructed approximately 2 metres back from the edge of the site without planning permission. I have not been presented with a Certificate of Lawful Use or Development under s192 of the Act to demonstrate that such development would not require planning permission and, in the absence of any substantive evidence to convince me that this development would take place in the event of the appeal being dismissed, I attribute minimal weight to this suggested fallback. Furthermore, the suggested fence would be set back within the site and may not have the same visual impact as the development proposed.

Conclusion

9. The proposal would cause material harm to the character and appearance of the area. This brings the scheme into conflict with the development plan as a whole and there are no other considerations, which would outweigh the harm that I have found. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR