



Appeal Decision

Site visit made on 24 September 2024

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/X1545/D/24/3347095

Beverley, 28 Main Road, St. Lawrence, Essex, CM0 7NA

- 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 Mrs Gillian Mills against the decision of Maldon District Council.
 - The application Ref. is HOUSE/MAL/23/01194.
 - The development proposed is the erection of wooden fencing and gravel boards following removal of hedges.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of wooden fencing and gravel boards following removal of hedges at Beverley, 28 Main Road, St. Lawrence, Essex, CM0 7NA, in accordance with the terms of the application, Ref. HOUSE/MAL/23/01194, and subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: L.01 Location Plan; L.02 Block Plan; and L.03 Streetscene.

Procedural Matters

2. The description of development in the banner heading has been taken from the Council's decision notice and the appeal form. Whilst normally this would be taken from the original application form, I have used this more succinct version.
3. The fence the subject of this appeal has already been installed.

Main Issue

4. The main issue is the effect of the fencing on the character and appearance of the appeal site and the surrounding area.

Reasons

5. The appeal property is a detached dwelling located at the junction of Main Road and Beachy Drive, within a wider residential area. Main Road is the primary route into the settlement and there is a network of residential roads which flow from it. Most dwellings on Main Road front the highway and are set back behind a mix of low fencing, walls and/or planting. With some exceptions, the frontages of Beachy Drive appear open, or with low enclosures.

6. The appeal property is unusual in its orientation compared to neighbouring buildings, with its rear elevation parallel to Main Road, and one side adjacent to Beachy Drive. The garden which serves the property is next to these roads and a car park to a church centre. As such, a more open aspect or low form of enclosure would not afford any privacy in this busy location.
7. The fencing is visible in the street scene, and is taller than most along Main Road, but it does not appear unduly intrusive due to the array of boundary treatment in the vicinity; its finish and materials are not dissimilar to others nearby. Although I note the Council's concern about the extent of the fence line, it is not viewed in a single plane, thereby reducing the perceived impact. The set back position of the fence behind the verge in Beachy Drive aids in ensuring that it does not appear overbearing. At the appeal site visit it was evident that there are other properties in Beachy Drive and beyond with tall fencing next to the road, enclosing rear gardens, and the appeal development is seen within the same context.
8. The Council advises that Permitted Development rights to install fencing and other means of enclosure have been withdrawn in the wider residential area under an Article 4 Direction, and this appears to include part of the Beachy Drive frontage of the appeal property. However, as noted by the appellant, this does not impose a blanket restriction on such development. Whilst I appreciate the aims of the Article 4 Direction, having regard to the atypical siting of the appellant's garden, I consider this to be a circumstance where both an enclosure, and an enclosure of the installed height, may be justified. Policy D1 of the Maldon District Approved Local Development Plan 2014 – 2029 (2017) [ALDP] requires the provision of sufficient and usable private amenity space.
9. I therefore conclude that the fencing does not detract from the character and appearance of the appeal site and the surrounding area. It respects the character and local context in terms of materials and design, height and form, in accordance with ALDP Policy D1. For the same reasons it would be sympathetic to local character, including the surrounding built environment, as required by the National Planning Policy Framework.
10. With regard to ALDP Policy H4, which relates to the effective use of land, I agree with the appellant's view that the fence does not constitute an alteration, extension and/or addition to a building, and as such the policy is not engaged.

Conditions

11. As the fencing has been installed, a time limit condition is unnecessary, although I have specified the approved drawings as this provides certainty. I consider the Council's suggestion of conditions to secure an Arboricultural Impact Assessment, Tree Survey, Arboricultural Method Statement, and Tree Protection Plan to be unnecessary and unreasonable as the fence has been installed.
12. The Council also requests the submission of a soft landscaping scheme. The appeal statement confirms that the appellant would accept conditions requiring details of the painting of the fencing to be submitted and approved by the local planning authority, and the submission of landscaping details (such as climbing vegetation) and managing the overall height of the fence, if considered reasonable and necessary.

13. I have found the colour and materials of the fence to be compatible with others in the area. Given the extent of the red-edged application site, it is not evident that space would be available for any effective soft landscaping. As I consider the fence to be acceptable in its visual impact in its own right, neither suggested condition would meet the statutory tests.

Conclusion

14. For the reasons given above the appeal should be allowed.

H Lock

INSPECTOR