



Appeal Decision

Site visit made on 15 July 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/Z1510/W/25/3364832

The Angel Hotel, St Marys Square, High Street, Kelvedon, Essex CO5 9AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alex Broster, Punch Limited against the decision of Braintree District Council.
 - The application Ref is 25/00393/FUL.
 - The development proposed is described as 'retrospective planning for 1.2m high timber fence to front boundary line'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have dealt with the appeal based on the submitted plans, which ostensibly reflect a timber fence which I saw has been installed to the frontage of the site.

Main Issues

3. The main issues are (i) the effect of the proposal on the character and appearance of the Kelvedon Conservation Area ('the CA'); and (ii) the effect of the proposal on highway safety.

Reasons

Conservation Area

4. The Kelvedon Conservation Area Character Appraisal and Management Plan 2020 ('the CAMP') notes that the principal significance of the CA derives from its history as a small medieval and post-medieval town and the tangible evidence for its development over millennia. It includes many well-preserved historic buildings which are typically closely-spaced and which vary in age, form and architectural style resulting in attractive, diverse streets. Historic buildings near to the appeal site are often built up to the footway, but front boundaries where present are predominantly low brick walls, hedging or railings of traditional materials and appearance.
5. The appeal site is in a prominent location within the CA, positioned on St Mary's Square between the junctions of Maldon Road and Church Street with the B1024. It includes a public house which is set back from the road in a somewhat unusual arrangement for this part of the CA. Nevertheless, the form and materials of the building are typical of the area and while I agree with the CAMP that the concrete

car park surfacing is visually dominant, I find the site to make a generally positive contribution to the character and appearance and thus the significance of the CA.

6. The close boarded fencing to the frontage of the appeal site is of notably different form and appearance to the traditional materials and generally low height and/or open texture of typical front boundary treatments in the vicinity. The appellant suggests it could be decorated in grey or another suitable colour which could soften its appearance from the current untreated condition. Even so, the fence would still be an incongruously modern and suburban feature. Whether painted or not, its solid form together with the height and significant length along most of the frontage results in an uncharacteristically harsh visual barrier and it forms a large and obtrusive element in a prominent location within the CA. I consequently find that the proposal detracts notably from the character and the appearance of the area.
7. The Council indicates that a previous application including picket fencing on the site¹ was withdrawn and I have not been provided with details of any planning permission granted for timber fencing along the frontage of the site.
8. I have noted reference to potential to install a fence of up to 1m in height under permitted development rights. However, the appeal development exceeds this height. The visual impact and degree of enclosure is therefore greater. Similarly, it appears from the photograph within the appellant's evidence that white picket fencing present to the frontage of the appeal site in 2016 was of lower height than the current fence. The gaps between pickets further results in a clearly different appearance to the solid panels of the appeal fence.
9. Given the above, effects of a potential permitted development fallback scheme and the former picket fence are not directly comparable to the appeal proposal, and neither provide a compelling justification for the development that is before me now.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the CA. In my assessment, the appeal development stands out as a discordant and conspicuous feature which fails to preserve the character and the appearance of the Kelvedon CA and which causes harm to its significance as a whole. Given the scale of the development and that effects are relatively localised, the harm is 'less than substantial' in the terms of the National Planning Policy Framework ('the Framework') which indicates that the harm should be weighed against the public benefits of the proposal.
11. The Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. It goes on to advise that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.
12. Although I have found that harm to the significance of the CA to be less than substantial, it nevertheless attracts considerable importance and weight.
13. Against this harm, the appellant advises that the fencing was installed in good faith to ensure guarding of adequate height given a drop in level from the pavement to the surface of the car park. However, while they refer to pedestrians falling through

¹ Application ref 21/02772/FUL

gaps in previous railings, details are limited and it is unclear to what extent damage to the post and two rail fencing referenced in the evidence may have been a contributing factor. I am further not aware of any history of incidents with the former picket fence in place. Given the above and in the absence of firm evidence to demonstrate that suitable protection could only be provided by a fence of the height or design currently proposed, I find that any requirement to guard the boundary in the interests of public safety does not provide a clear and convincing justification for the proposal.

14. The appellant refers to potential for advertising on the fence, but the pub and existing signage is already clearly legible from the surrounding area, and I consider there would be unlikely to be any significant boost in trade. Economic benefits associated with installation of the fence would also be very limited given the small scale of the development.
15. In my assessment, the public benefits of the proposal are insufficient to outweigh the harm to the significance of the CA. Accordingly, the proposal conflicts with the Act and the Framework and I conclude that there is unacceptable harm to the character and appearance of the Kelvedon CA contrary to Policies SP7 and LPP53 of the Braintree District Local Plan 2013-2033 ('the LP') and Policies DE1 and HE1 of the Kelvedon Neighbourhood Plan 2022. Together and amongst other things, these policies broadly require high quality design that responds positively to local character, context and sense of place; and seek the preservation and enhancement of the character and appearance of conservation areas.

Highway Safety

16. The appeal site sits to the inside of a bend in St Mary's Square with vehicular access from the highway positioned adjacent to the south east boundary of the site.
17. The fence runs along the majority of the site frontage, and broadly follows the curvature of the highway. In this alignment, I saw that the solid form and height of the fence act to significantly restrict views towards the north east for drivers exiting the site, with oncoming vehicles approaching from High Street largely obscured until they have part rounded the bend and reached a point relatively close to the site access. The height and solid design of the fence further mean that the degree of obstruction to visibility is greater than would result from the picket fence previously on the site or any potential scheme utilising permitted development rights.
18. The appellant suggests that there would be adequate visibility splays, but this is with reference to sight line distances required for 20mph traffic speeds. The highway past the appeal site is subject to a 30mph speed limit and no survey or firm evidence to demonstrate actual speeds has been provided. Stopping sight distances increase with speed and in the absence of firm details to show that the proposal would achieve suitable visibility distances in accordance with traffic speeds here, it has not been demonstrated that there would be adequate standards of visibility contrary to my impression at my visit.
19. In my assessment, the fencing results in inadequate visibility which significantly increases the potential for conflict between vehicles exiting the appeal site and oncoming vehicles approaching from the north east along High Street/St Mary's Square with consequent detriment to the safety of highway users.

20. I therefore conclude that the proposal would cause unacceptable harm to highway safety and it would conflict with Policy LPP52 of the LP and Policy DM1 of the Essex County Council Development Management Policies 2011 insofar as they seek, amongst other things, to ensure that development would not have a detrimental impact on the safety of highways.

Other Matters

21. The appellant advises that they would be willing to make amendments to the development in order to retain the existing fencing. However, I have no firm details or plans to show any alternative and I am not satisfied that adequate amendments could be made to mitigate the harm that I have identified without resulting in a substantial difference to the scheme applied for. It would not therefore be appropriate to defer this matter to a planning condition.
22. There are a number of listed buildings in the vicinity of the site, including the adjacent Grade II* listed St Marys House. Effects on listed buildings are not specifically considered or raised as a concern within the Council's evidence but I am nevertheless mindful of section 66(1) of the Act which requires special regard to the desirability of preserving listed buildings and their setting. Given however that I am dismissing the appeal for other reasons, there would not be change to the setting of listed buildings and because it could not affect my overall conclusions, I have not found it necessary to consider this matter further.

Conclusion

23. I note comments from interested parties in support of the proposal. For the reasons given above however, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR