
Appeal Decision

Site visit made on 15 August 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 1 September 2017

Appeal Ref: APP/V1505/W/17/3172696

2 Clarendon Road, Pitsea, Basildon SS13 2BL

- 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 Yanik Moyet against the decision of Basildon Borough Council.
 - The application Ref 16/01524/FULL, dated 28 October 2016, was refused by notice dated 21 February 2017.
 - The development proposed is described as 'Change of use for the land (shaded red) from Highway to Private; enclose the area of land by erecting a fence of standard construction (concrete post/wood panels) 2m in height; lower the kerb and create a 2.76m crossing as indicated on the Site Plan.'
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Decision

1. The appeal is allowed and planning permission is granted for the change of use for the land from highway to private; enclose the area of land by erecting a fence of standard construction (concrete post/wood panels) 2m in height; lower the kerb and create a 2.76m crossing at 2 Clarendon Road, Pitsea, Basildon SS13 2BL in accordance with the terms of the application, Ref 16/01524/FULL, dated 28 October 2016, subject to the conditions set out below:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with following approved plans: 2 Clarendon Road, Pitsea SS13 2BL Site Plan, Side Elevation and Fence Elevation 2.

Preliminary Matter

2. The description of development given on the application form includes references to accompanying plans. Since those plans are specified in a condition attached to the permission, I have omitted the references from the description of development in paragraph 1 above.

Main Issues

3. The main issues are the effects of the proposal on:
 - the character and appearance of the area;
 - highway safety.
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Reasons

Character and Appearance

4. The appeal property is an end of terrace dwelling with front and rear gardens. To the side of the dwelling is a paved area adjoining an access to garages to the rear of the property. On the opposite side of the access are a footpath and the fenced rear gardens of an adjoining terrace of dwellings.
5. The proposal would enclose the area to the side of the appeal property and allow it to be used as a private garden space. The area proposed to be enclosed is currently open and, to a degree, contributes to the spaciousness of the area. However, there are other, more attractive open areas in the immediate vicinity of the site, such as front gardens of the appeal property terrace and the greensward at the end of the adjoining terrace, which would continue to contribute to spaciousness.
6. Moreover, the area proposed to be enclosed is currently used for casual car parking and is unkempt. Its appearance, therefore, detracts from the character of the area. The provision of a 2m high close boarded fence, whilst conspicuous in the street scene, would be no more harmful to the appearance of the area than the current situation. In coming to this view I have had regard to the effect the fence which has been erected in a similar setting at the opposite end of the appeal terrace.
7. Therefore, I find that the proposal would not have a detrimental effect on the character and appearance of the area. As such, it would not conflict with Policy BAS BE12 of the Basildon District Local Plan Saved Policies 2007 (LP) insofar as criterion (i) presumes against development that would harm the character of the surrounding area, including the street scene. Nor would the proposal conflict with paragraph 60 of the National Planning Policy Framework or paragraph DC1 of the Council's Development Control Guidelines 1997 to the extent that they have similar aims.

Highway Safety

8. The area proposed to be enclosed provides a footpath route from Clarendon Road to the garages to the rear of the appeal property and a link to Crown Avenue. However, its effectiveness in this regard is significantly compromised by the casual parking which takes up most of its width. Furthermore, an alternative footpath is available on the opposite side of the access. This route is likely to be no less convenient for most pedestrians. Some pedestrians may need to cross Clarendon Road to get to the alternative route. However, traffic speeds and volumes at this location appear to be low and the junction has good visibility.
9. Again it is relevant to note that the enclosure of the area at the opposite end of the terrace has resulted in the loss of a footpath whose function would have been similar to the footpath at the appeal site. There is nothing to suggest that the loss of that footpath has led to highway safety concerns.
10. Consequently, I consider that the proposal would not pose a risk to highway safety. It would not, therefore, conflict with criterion (v) of LP Policy BAS BE12 which presumes against development that would lead to traffic danger or congestion. Nor would the proposal conflict with Policy DM1 of Essex County Council's Development Management Policies 2011 inasmuch as it requires

proposals to not create a significant potential risk or be detrimental to the safety of the highway network.

Other Matter

11. For the avoidance of doubt, my decision is based on the planning merits of the proposal. Land ownership rights and the sale or transfer of land are separate matters.

Conditions

12. The local planning authority has not suggested any conditions. The County Council has suggested one condition requiring the proposed fence to be sited a minimum of 2m from the edge of the carriageway in order to facilitate pedestrian movement and in the interests of highway safety. However, given the overall width of the appeal site, if this condition were implemented, the area remaining to be enclosed would be so narrow as to be effectively useable. Moreover, for the reasons set out above, I consider that retention of the footpath in this location is unnecessary.
13. A condition specifying the approved plans is necessary in the interests of certainty.

Conclusion

14. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR