



Appeal Decision

Site visit made on 3 November 2021

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal Ref: APP/W1525/D/21/3284382

43 Waterhouse Lane, Chelmsford CM1 2TE

- 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 Matthew Calvert against the decision of Chelmsford City Council.
 - The application Ref 21/00844/FUL, dated 22 April 2021, was refused by notice dated 16 July 2021.
 - The development proposed is described as 'Proposed 6ft mature laurel hedging with new fence set behind new hedging, to the front of existing driveway. Enable to create privacy to the two front bedroom windows. Along with new proposed double gates to replace existing gate.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. The form sets out that, at the time the application was submitted, the development had been started but not completed.
3. When I visited it appeared that a fence and gate had been erected towards the front of the site relatively recently. However, that development does not exactly match the positions of the proposed fence and gate shown on the submitted drawings. As such, I have made my decision based on the development as proposed on the drawings.
4. The National Planning Policy Framework (Framework) was revised on 20 July 2021. It replaces the version from 2019 that the Council took into account when it determined the application. The appellant provided comments on the current version of the Framework with the grounds of appeal. In any event, there are limited differences between the 2 versions of the Framework in respect of the specific issues in contention, such that it has not been necessary to seek further views from the parties regarding this matter.

Main Issues

5. The main issues are the effects of the proposal on:
 - the character and appearance of the area; and
 - highway safety and the free flow of traffic.

Reasons

Character and appearance

6. The site comprises a residential property that fronts onto Waterhouse Lane. A motor dealership forms part of an area of commercial buildings located on the opposite side of the highway. Residential properties located along the immediate part of Waterhouse Lane are set back from the highway to varying extents, with several behind green spaces. However, most of the properties feature front gardens that have open boundaries or low fences, walls or vegetation facing the highway.
7. Although the commercial area is nearby and the site extends closer to the highway than many other residential properties, the site clearly has a domestic character and appearance and is set alongside other residential properties. It does not form part of a group of commercial buildings. I therefore consider that the proposal should principally be compatible with the character and appearance of the residential development in the area.
8. The proposed gates and fence would project significantly forward of the dwelling and close to the highway. Both the gates and fence would be taller than the boundary treatments to front gardens elsewhere in the vicinity and the fence would extend across most of the plot to the front of the dwelling. As a result of the development's set forward position, height, and continuous form, it would be a highly prominent and incongruous addition that would disrupt the continuity of boundary treatments to residential properties along Waterhouse Lane. Consequently, it would be harmful to the character and appearance of the area.
9. I acknowledge that grass verge would be retained between the site and the back edge of the footway and landscaping is proposed in front of the fence. However, it would be some time before the landscaping screened the development to any significant extent, and the gates and fence proposed along the site's side boundary would still be highly visible from Waterhouse Lane. The landscaping would not screen the development to the extent that the harm would be overcome.
10. Therefore, the proposal would harm the character and appearance of the area. It is contrary to Policy DM23 of the Chelmsford Local Plan (LP), which requires development to respect the character and appearance of the area in which it is located. In addition, it is contrary to Chapter 12 of the Framework, which seeks to ensure that development adds to the overall quality of an area and is sympathetic of local character.

Highway safety

11. The Highway Authority recommends that gates are set back 6 metres from the back edge of footways to prevent vehicles from waiting within the highway for the gates to be opened. A 6 metre set back is also identified in the Essex Parking Standards¹. The proposed gates would be set back from the back edge of the footway less than 6 metres. Consequently, many cars and larger vehicles would be required to wait in the highway for the gates to be opened.

¹ Parking Standards: Design and Good Practice, September 2009

12. Waterhouse Lane is classified as a main distributor road and a relatively high number of vehicles were travelling along it during my visit. However, vehicles waiting in the highway would nonetheless be visible to pedestrians and other drivers to a similar extent to vehicles turning into the access currently. In addition, having regard to the use of the property, vehicle movements to and from it are unlikely to be frequent. A condition to require the installation and maintenance of a system which opens the gates automatically would likely reduce the times that vehicles would have to wait in the highway.
13. Furthermore, a metal gate is in situ on site near to the highway. Based on the gate's condition, it has been in place for a considerable length of time. There is no evidence that the gate has resulted in highway safety or traffic flow issues. Additionally, the fence and gates would be in a position that would provide adequate visibility for vehicle drivers attempting to egress from neighbouring properties.
14. Based on the evidence before me, the proposal would not result in unacceptable harm to highway safety or the free flow of traffic. It accords with LP Policy DM27, which sets out that the Council will have regard to the Essex Parking Standards when determining applications. In addition, the proposal accords with paragraphs 111 and 112 of the Framework insofar as it sets out that development should only be prevented if there would be an unacceptable impact on highway safety, and that safe and secure places are created.

Other Matters

15. I acknowledge that the proposal is sought to provide security and privacy for the occupiers of the property. However, there is no evidence that there are considerable security issues in the area, or that development in the form proposed would be the only way that the occupiers could achieve adequate privacy levels. In any case, these matters do not reduce the policy conflict or outweigh the harm identified.

Conclusion

16. For the reasons set out above, the proposal conflicts with the development plan taken as a whole. Material considerations do not outweigh the proposal's conflict with the development plan. Therefore, the appeal should be dismissed.

Mark Philpott

INSPECTOR