

Appeal Decision

Site visit made on 4 January 2022

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 JANUARY 2022

Appeal Ref: APP/Z1510/D/21/3280329

31 Armond Road, Witham, CM8 2HD

- 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 Nicholas Rushen against the decision of Braintree District Council.
 - The application Ref 21/01307/HH, dated 21 April 2021, was refused by notice dated 16 June 2021.
 - The development proposed is the erection of fencing to side and rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of fencing to side and rear garden at 31 Armond Road, Witham, CM8 2HD in accordance with the terms of the application, Ref 21/01307/HH, dated 21 April 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan at scale 1:1250, Block Plan at scale 1:200 and Drg No 001.

Main Issue

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

Reasons

3. The appeal property is a detached bungalow occupying a corner plot and which fronts onto Armond Road, with a side return boundary to Chelmer Road. It sits within a much wider residential estate development comprising a mix of mostly detached property types, the majority of which have open plan frontages. This imparts a distinctive sense of space to the street scenes; enhanced further by the noticeable absence of on-street parking along the majority.
 4. The entrance to Chelmer Road comprises a wide bell-mouth with splayed footpaths to either side and with segments of greensward within the
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intervening spaces that follow the curvature of the kerb lines. Similar arrangements are evident at other road junctions along Armond Road and elsewhere within the locality.

5. By way of clarification, the planning application was explicitly for the erection of fencing to the side and rear garden of the appeal property. It was accompanied by a site plan which showed the application site edged red and extending up to the footpath along Chelmer Road. The application form included a signed declaration stating that the land to which the application related was within the applicant's ownership. Whilst the proposal relates to land to the side and rear of No 31 that is currently open to the public realm through the absence of any current means of enclosure, there is no evidence for me to doubt that the land is privately owned and that the curtilage to No 31 extends up to the footpath along Chelmer Road. Therefore, despite apparent assertions by the Council within the officer's report that the proposal would change the use of the land from public amenity space to private garden space, that is not the proposal that is before me.
6. The proposal would involve the erection of a 1.8m close-boarded fence that would project at right angles from a recessed position along the flank wall of the dwelling and extending to within 1m of the adjoining splayed public footpath. It would then follow the boundary of the appeal site enclosing the side/rear garden of the premises, maintaining a 1m separation with the footpath for its entire length. To further clarify, no part of the garden to the front of the property would be enclosed by the fencing, as has been suggested at one point within the officer's report.
7. There is no doubt that the enclosure of the side/rear garden to No 31 would markedly change the appearance of the appeal site and the junction where Chelmer Road meets Armond Road. There is currently a significant amount of open space between the side elevation of the appeal property and the footpath along Chelmer Road. However, during my visit I observed that, despite the open plan nature of the surrounding area, the amount of open space to the side of No 31 was not typical of all corner plots but existed more due to the individual circumstances of the property's layout rather than as part of a consistent pattern to developments at all surrounding road junctions.
8. As an example, the entrance from Armond Road into Barnardiston Way, just a short distance west of the appeal site, is very similar to the circumstances at the junction with Chelmer Road in terms of road width, layout, and configuration, with a wide bell-mouth, splayed footpaths, and segments of grass verge. The houses that extend along Barnardiston Way all have open plan frontages that compare with those along Chelmer Road. But in that instance, the corner plots at Nos 6 and 8 Armond Road each have less space to the side with their building positions set much closer to their side return boundaries when compared with No 31. Moreover, each has fencing running along their side and rear gardens which, in the case of No 8 adjoins the adjacent footpath. The fence to the side of No 6 is recessed slightly from the adjacent footpath, comparable to the appeal proposal. The vista into Barnardiston Way is unquestionably narrowed by the presence of the fences to each side. However, they represent typical and reasonable garden enclosures that did not appear to impact harmfully upon the generally open character of

the area, which is maintained by the otherwise open frontages of all the surrounding properties and the greenswards that remain at the junction.

9. A similar arrangement exists further along Armond Road at the entrance to Stourton Road, although in that case the side/rear garden enclosures to the corner properties at Nos 46 and 48 Armond Road are achieved by high hedges and vegetation adjacent to the footpaths rather than solid fence lines. I saw several other cases within the wider estate where corner properties had enclosures to the side boundaries adjacent to adjoining footpaths but where front gardens remained open and spacious, including at No 2 Chelmer Road, on the corner immediately opposing the appeal side. None of these examples appeared to me as out of place or detrimental to the spacious qualities of the area. I recognise that there are examples of other corner properties that do display a strong degree of openness but overall, there is a mix of both circumstances with none more dominant, or to my mind more important, than the other.
10. The appeal proposal would maintain the open plan frontage of the appeal site. This would remain in harmony with the wider area. The enclosure of the side/rear garden would undeniably change the appearance of the site and the road junction. However, although the vista along Chelmer Road, when looking in both directions, would be less expansive than the existing, there would be no unreasonable sense of enclosure to the street scene. The result would merely reflect circumstances that are prevalent in comparable situations in the locality. Overall, I am satisfied that there would be no harmful impact upon the character or appearance of the area. As such, I find no conflict with Policy RLP90 of the Braintree District Local Plan Review (LPR), Adopted July 2005, or the emerging Policy LPP55 of the Section 2 - Publication Draft Local Plan June 2017 (Section 2 Plan) insofar as they require the layout and design of development to be of a high standard that reflects local distinctiveness and harmonises with the surrounding area, or with the similar aims of Section 2 Plan emerging Policy LPP50 as it relates to the built environment. Due to the nature of the proposal LPR Policy RLP25 and Section 2 Plan emerging Policy LPP43 are not directly relevant as they deal with garden extensions that relate to a material change of use of land.

Conditions

11. In addition to the standard time limit condition a condition specifying the relevant plans is necessary as this provides certainty. The proposal is explicitly for the erection of a close boarded timber fence. Therefore, the Council's suggested condition that would require the materials to be used in the construction of the external surfaces of the development to match those used in the existing building is unreasonable and unnecessary.

Conclusion

12. For the reasons given, I conclude that there would be no harm to the character or appearance of the area. Accordingly, having regard to all other matters raised, and in the absence of any other conflict with the development plan, the appeal is allowed.

John D Allan INSPECTOR