



Appeal Decision

Site visit made on 3 August 2022

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 26th August 2022

Appeal Ref: APP/N1540/D/22/3301635
28 Bowhill Way, Harlow, Essex, CM20 1FH

- 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 Charles Linford against the decision of Harlow District Council.
 - The application Ref HW/HSE/22/00171, dated 26 April 2022, was refused by notice dated 9 June 2022.
 - The development proposed is the relocation of a 1.8m garden fence to property boundary, adjacent to a public highway.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development upon the character and appearance of the surrounding area

Reasons

3. The application site relates to a dwelling located on a curve within a recently constructed residential area. The proposed development is the extension of fencing around a small strip of green space to the side of the dwellinghouse. This green space is characteristic of the area and contributes to the soft-landscaped and open character of the local neighbourhood, and which in part therefore softens and acts as a visual buffer to the high-density built environment of the estate.
4. The appellant submits that the use of fencing has been limited to go no further than is reasonably necessary to achieve their objectives. Be that as it may, I find that due to its height, length and prominence, the proposed development would form a large, obtrusive and incongruous feature in the street scene. It would therefore be a harmful addition that would be at odds with the area's character and appearance.
5. The appellant has submitted representations in relation to how Policies PL1 and PL6 of the Harlow Local Development Plan, December 2020 should be interpreted due to precedents set under BE1 of the Adopted Replacement Harlow Local Plan (ARHLP) 2006. However, as Policy BE1 has been superseded, I do not consider that there is any precedent set under decisions made under that superseded policy which would influence or directly constrain my findings on the interpretation of Policies PL1 and PL6. Therefore, any such outdated policies do not affect my findings on the main issue.

6. The appellant has submitted representations in relation to how PL6 should be interpreted, to the extent that this policy need not necessarily apply. However, I do not find that there is any policy wording which would preclude the small strip of green space to the side of the dwellinghouse from falling under the category of Other Open Space, albeit it may not reach the weight as woodland or landscaping belt as the appellant has indicated. While I understand that open spaces may vary in nature and quality, I have found that this green space is sufficient to meet the criteria of Other Open Space. It is an open space, with a public value which makes a positive contribution to the character of the area as a visual buffer. Therefore, as PL6 applies, the requirement to protect Other Open Spaces is applicable to ensure that development would not compromise the landscape character, openness and urban design principles of the surrounding area. I find that the proposed development would be contrary to these requirements.
7. I have considered the appellant's comments regarding the departure from a homogenised landscaping profile in the area, specifically in relation to front boundaries. I note that an element of variance has arisen regarding the landscaping utilised at various nearby properties, including works which the appellant has introduced regarding the replacement of mulch with grass turf. The appellant has also referred to the visual impact and precedent of fencing at 81 Bowhill Way, 146 Bowhill Way and 94 Bowhill Way as examples of this departure from a homogenised landscape profile. However, the existence of fences at those properties neither fundamentally changes the generally open character of the neighbourhood nor indicates that the appeal proposal is acceptable.
8. The appellant has indicated that, should the appeal be dismissed, they will rely on alternative means to achieve their objectives, which may include enclosing the entire front boundary via the installation of a 1 metre high fence in addition to the existing fencing on the site. It is submitted that this would not require planning permission and would result in a greater impact to the visual amenity of the area than the appeal proposal. However, I consider that this fallback position would result in fencing which is significantly shorter in height than the proposed development, with a correlative difference in terms of the impact on the character and appearance of the locality. Therefore, although the area of land that may be enclosed under this scenario would be greater than that proposed as part of the appeal, I find that the potential harm of this fallback position does not justify the additional detriment that would result from the proposed development.
9. Having taken the above factors into consideration, it is my conclusion that the proposed development would harm the character and appearance of the area. It would therefore not comply with the criteria for high urban design and would not enhance or improve local distinctiveness, contrary to policy PL1 of the Harlow Local Development Plan. Instead, the proposed development would compromise the landscape character, openness and urban design principles of the surrounding area, contrary to policy PL6 Harlow Local Development Plan.

Other Matters

10. I have considered representations regarding highways safety and light deprivation, but these are matters which do not affect my findings on the main issue.

11. I have considered the benefits that would arise from the proposed development in terms of increasing the size of the garden, utilising other land for bin storage, the protection against dog fouling and how privacy would be improved around the garden. Having taken these considerations into account, I find that they do not justify a fence of this height and prominence as an acceptable solution and collectively, do not outweigh the harm to the street-scene and the conflict with the development plan.

Conclusion

12. I have found that the proposed development conflicts with development plan policy and thus find that it would be contrary to the development plan as a whole. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR