
Appeal Decision

Site visit made on 27 September 2022

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022.

Appeal Ref: APP/A1530/D/22/3303083

13 Jefferson Close, Colchester, Essex, CO3 9DR

- 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 Wayne Mendies against the decision of Colchester Borough Council.
 - The application Ref. 220653, dated 13 March 2022, was refused by notice dated 5 May 2022.
 - The development proposed is garden boundary wall.
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Decision

1. The appeal is allowed and planning permission is granted for garden boundary wall at 13 Jefferson Close, Colchester, Essex, CO3 9DR in accordance with the terms of the application, Ref. 220653, dated 13 March 2022, 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: 1:1250 scale Site Location Plan; Proposed Garden Wall - Plan SH 100; and Plans & Elevations – SH 101.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. The Council adopted Section 2 of the Colchester Borough Local Plan 2017 – 2033 (LP2) in July 2022, after the determination of the planning application. As a result, Core Strategy Policy UR2 and Development Policies document Policy DP1 cited in the reasons for refusal have been superseded by LP2 Policies DM13 and DM15. As the appellant commented on emerging policy in the grounds of appeal I have not sought further comment but for the avoidance of doubt, I have determined this appeal on the basis of the policies now in force.

Main Issues

3. The main issues are (1) the effect of the proposal on the character and appearance of the street scene and wider area; and (2) the need for the proposed development.

Reasons

Character and Appearance

4. The appeal property is located on a residential estate of dwellings dating from the same construction period, and of similar designs, detailing and materials. The front gardens are generally 'open plan', and provide parking interspersed with landscaping. The estate contains a number of cul-de-sacs, and the appeal site is located on a corner plot towards the end of one such road. The front garden of the dwelling is grassed, as is an area to the side, between the house, a neighbouring garage, and the footway.
5. Within this context of largely open front gardens, high boundary walls and fencing are also a feature of the street scene, primarily to enclose the rear gardens of dwellings which side onto footpaths. Although I note the Council's view that walls are not an overly common feature in the street scene, the appellant has drawn attention to a number in the area, and I consider that they are more than the exception, and occur without undermining the open character. Few enclosures project forward of the front elevation of the host dwelling, but whilst not prevalent, there are examples where this occurs, where a side wall or fence links to a garage in the front garden. Garages are also prominent in the street scene, many of which are built very close to the adjacent footway.
6. The proposed wall would reduce the openness of the appeal site on the corner, but a sense of space would be maintained by the retention of the wide and open front garden to the property. There would be some visual intrusion as a result of the wall projecting closer to the road than the neighbouring garage and the house, but this would not be significant given the position and height of other garden boundary walls and garages in the street scene, and the location of the site towards the end of a cul-de-sac. Although visible in the street scene, in this context I do not consider that the proposal would appear incongruous, harsh and overly dominant, as envisaged by the Council. In accordance with LP2 Policy DM13, it would not result in an adverse impact to the appearance of the street scene and character of the area, and would be compatible with the scale, appearance and character of the original dwelling.
7. I therefore conclude that the proposal would be acceptable in its impact on the character and appearance of the street scene and the surrounding area. It would accord with the aims of LP2 Policies DM13 and DM15, which requires all development to respect and, wherever possible, enhance the character of the site, its context and surroundings, and to protect and promote public and residential amenity. For the same reasons, it accords with the overarching place shaping principles set out in Policy SP 7 of Section 1 of the Colchester Borough Local Plan 2013 – 2033 (adopted 2021).

Need for the Development

8. Although not obviously information provided with the planning application, the appellant's grounds of appeal set out why the proposal is required, given the needs and circumstances of the family. The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 is engaged because a member of the family has protected characteristics which are relevant to the development. However, on the basis of the information provided it is not evident that the need could not be met within the existing garden, although the

appellant advises that it would involve some relandscaping and redesign. As I have found the proposal to be acceptable on its own merits it is not necessary to consider this in greater detail, but I have taken account of the duty in my assessment.

Conditions

9. In addition to the standard time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the existing dwelling, in order to safeguard the character and appearance of the development and the area.

Conclusion

10. For the reasons given above I conclude that the appeal should be allowed.

H Lock

INSPECTOR