



Appeal Decision

Site visit made on 20 December 2022

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2023

Appeal Ref: APP/W1525/D/22/3306096

33 Barlows Reach, Springfield, Chelmsford, Essex CM2 6SN

- 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 Ms Diana Winstone against the decision of Chelmsford City Council.
 - The application Ref 22/00715/FUL, dated 8 April 2022, was refused by notice dated 16 June 2022.
 - The development proposed is the erection of a 2m fence around rear garden boundary.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2m fence around rear garden boundary at 33 Barlows Reach, Springfield, Chelmsford, Essex CM2 6SN in accordance with the terms of the application, Ref 22/00715/FUL, dated 8 April 2022.

Procedural Matter

2. The application was made retrospectively and at the time of my visit I saw that the fence had been erected.

Main Issues

3. The main issues are the effect of the development upon the character and appearance of the area, and upon highway safety.

Reasons

Character and Appearance

4. The area comprises a residential estate development characterised by detached and semi-detached dwellings set on irregular building lines. Those fronting Barlows Reach and the other roads within the estate have shallow frontages of varying depths, including some where the building immediately abuts the back edge of the footpath. I also saw several corner properties with side returns facing roads and with garden fence or wall enclosures immediately adjoining the footpaths. The result of this mix is that, whilst front gardens are largely open plan, the area is not overtly spacious, with the vista along Barlows Reach, and along similar roads surrounding, appearing intimate and tightly enclosed in places and at regular intervals along its length.
5. The appeal property is a detached dwelling that faces south and tightly onto a small mews with a return side elevation and rear side garden boundary facing

Barlows Reach. In keeping with several other examples, the siting of No 33 is such that its front corner immediately adjoins the back edge of the pavement at a pinch-point along Barlows Reach. Immediately to the rear and abutting the appeal property's rear garden boundary to the north is a narrow access leading from Barlows Reach to a garage court and houses beyond. On the opposite side of the entrance to this access is a recessed double garage to the side of, and serving, No 35. This dwelling faces the main road and its front corner to the south side also touches the back edge of the pavement. The timber fence that has been erected comprises vertical, close boarded panels supported by concrete posts and measures approximately 1.9m in height. It encloses land within the ownership of No 33 to the rear of the property and runs for a length of roughly 10m along the plot's side boundary adjacent to the footpath along Barlows Reach, returning on a slight splay along the rear boundary of the appeal site.

6. The fence has replaced an original brick wall of a similar height, but which was on a much greater splay than currently exists, previously being set back from the pavement by around 3.5m at the corner furthest from the house where the appellant's land adjoins the access road to the rear. Photographs show that a triangular shaped piece of land in front of the original wall, and which is now enclosed by the fence, was laid to grass.
7. The Council has argued that the original enclosure was in-keeping with other boundary treatments in the area. That is true for some of the rear garden enclosures that face directly onto the public domain in terms of materials used. However, I also saw a number of timber fence enclosures serving an equivalent purpose in the area, including an obvious example very close to the appeal site at a property located on the corner with Murrell Lock. In that case the fence has a similar height and runs directly along the back edge of the pavement of Barlows Reach for a distance comparable to that at No 33. The only discerning difference between both was that the fence at the appeal site appeared reasonably new and un-weathered, which is an inevitable consequence of any new structure.
8. To my eye, the fence at No 33 appeared entirely residential in scale and form, being no more or less dominant or intrusive than other equivalent enclosures. Furthermore, it appeared to me to follow a logical alignment that was consistent with the forward position of the immediately adjoining built form, and with a visual presence within the street scene that was in tune with the established character of the area. Whilst the realigned position of the property's garden enclosure clearly removed a small pocket of open land, I was unable to place any great significance to this loss, or identify any visual harm.
9. Overall, I am satisfied that the fence has no impact upon the character or appearance of the area that is significant or harmful. As such, I find no conflict with Policy DM23 of the Chelmsford Local Plan 2013-2036 (LP), adopted in 2020, which requires development to respect the character and appearance of its surroundings. For the same reasons I find no conflict with the National Planning Policy Framework's (the Framework) objectives for achieving well-designed places.

Highway Safety

10. The Council is concerned that the forward siting of the fence, when compared with the position of the former wall, has led to an obstruction of the original

sight lines at the junction where the access road to the garage court joins Barlows Reach. They argue that this results in an unacceptable hazard to highway users from vehicles both approaching the junction and emerging from it.

11. There is no doubt that the original extent of visibility looking south, when emerging from the access, has been impacted by the new position of the fence. However, the access to the garage court is narrow and insufficiently wide for two cars to pass. Furthermore, I observed that traffic speeds along Barlows Reach are slow due to a number of factors including the significant number of access points from side turnings and driveways; a proliferation of on-street parking with no control measures in place; curvature of the road's alignment; an obvious and visually compact residential context; and a no-through route travelling north past the appeal site towards the terminal end of Barlows Reach. Because of this environment I observed there to be a natural traffic calming effect in the locality. Any vehicle entering or emerging from the access would be likely to do so cautiously and at very slow speed. Indeed, during my visit I did a vehicular manoeuvre into the garage court and out again onto Barlows Reach. It was clear that due to existing constraints unrelated to the appeal proposal, it was only possible to travel at very low speed.
12. In addition, when emerging from the access, due to the curvature of Barlows Reach, I observed that visibility of traffic approaching, when looking south, was good and uninterrupted despite the fence's position. I am not persuaded that the change has had any detrimental impact upon the safety of those using vehicles on the highway.
13. A vehicle emerging from the access point to the rear of No 33 would be slightly more hidden from the view of pedestrians using the footpath and approaching from the south than was previously the case. However, I observed that due to the forward position of many buildings, there were numerous instances in the locality where visibility of vehicles emerging from driveways was likely to be impeded to some degree. As such, I find the circumstances of pedestrian visibility relating to the development at No 33 to be no worse than many others, and likely to be better than some. A vehicle emerging from the access would not be a surprise to anyone walking in the area and would be as likely as one emerging from any number of other pavement crossing points. Its occurrence would be something any pedestrian would be likely to have continuous awareness and perception of.
14. I understand the importance of having safe and suitable access points. However, given the established highway environment that prevails, I find little difference between the position of the fence relative to the highway and many other circumstances in the locality. I therefore find that the erection of the fence has had little impact of significance upon highway safety. I note also that I have been presented with no accident data records that would otherwise show that prevailing circumstances in the locality are considered to be a danger. For these reasons, I find no conflict with the Framework's policies for promoting sustainable transport. I have been directed to no conflict with the LP's policies relating to highway safety as an issue in this case.

Conclusions

15. For the reasons given, I conclude that there is no harm to the character or appearance of the area, or to highway safety. Accordingly, in the absence of

any other conflict with the development plan, and having regard to all other matters raised, the appeal is allowed.

16. As the development has already taken place, there is no reason for me to impose any conditions.

John D Allan

INSPECTOR