



Appeal Decision

Site visit made on 10 October 2023

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th November 2023

Appeal Ref: APP/W1525/D/23/3328154

50 Hopping Jacks Lane, Danbury, Chelmsford, Essex CM3 4PJ

- 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 Mark Whelan against the decision of Chelmsford City Council.
 - The application Ref 23/00836/FUL, dated 16 May 2023, was refused by notice dated 4 July 2023.
 - The development proposed is front boundary fencing and electric gates.
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Decision

1. The appeal is allowed and planning permission is granted for front boundary fencing and electric gates at 50 Hopping Jacks Lane, Danbury, Chelmsford, Essex CM3 4PJ in accordance with the terms of the application, Ref 23/00836/FUL, dated 16 May 2023, and the plan numbered TRIO-LODGE-01 Rev A.

Preliminary Matters

2. I have taken the description of development from the application form insofar as it describes the development.
3. The banner heading above includes the correct spelling of the appellant's name, which differs from the spelling given on the application form.
4. The application was submitted retrospectively. On my site visit, I observed that the fencing and gates have been constructed in accordance with the submitted drawing. I have therefore considered the appeal on the basis of the submitted evidence and my own observations of the development.

Main Issues

5. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the proposal on highway safety.

Reasons

Character and appearance

6. The immediate surroundings to the site have a leafy character and are characterised by large dwellings with generously sized driveways. Some driveways have open frontages, but many are enclosed behind a mix of hedging and fencing. Whilst some boundary treatments are low in height, many driveways in close proximity to the site are partially hidden behind tall hedges

and mature trees. Numerous driveways have field gates marking the vehicular access from the road.

7. The development has been constructed along the existing boundary line that demarcates the edge of the highway. The fencing is similar in height to neighbouring boundary treatments and is largely screened behind vegetation in a manner that is in-keeping with other dwellings in the area, including adjacent properties. Therefore, whilst the development spans the full width of the property, it is only the gates that remain in full view. The presence of fencing behind vegetation provides continuity along the street frontage and does not cause harm to local character.
8. The gates are solid in structure and are taller than the field gates that are common in the locality. They also have a contemporary appearance and are of a colour and style that contrasts with others along the street frontage. However, the appearance of the gates is softened by the adjacent landscaping, and views from Hopping Jacks Lane are limited to a small area near to the site. Moreover, views of the first floor and roof of the host dwelling can still be gained from the road. Therefore, notwithstanding that the driveway is concealed, the overall sense of spaciousness in the street is maintained. Given the variety in building styles in the street and the small-scale of the development, it does not detract from local distinctiveness.
9. The retention of planting along the street frontage cannot be guaranteed. However, the planting is becoming established, and the evidence indicates it is the appellant's intention to maintain it in the longer term. Therefore, in all probability, it is likely the planting would be retained.
10. I conclude that the development would cause no harm to the character and appearance of the area. It would be in accordance with policy DM23 of the Chelmsford Local Plan (CLP), and paragraphs 130 and 134 of the National Planning Policy Framework (the Framework) which, taken together, expect development to be well-designed and to respect the character and appearance of the area in which it is located.

Highway safety

11. The site lies close to the junction between Hopping Jacks Lane and Nursery Lane. The Council describes Hopping Jacks Lane as a busy road. At the time of my site visit, it was quiet with few passing vehicles. Nevertheless, the road provides access through the village to a primary school, and retail and community facilities, and is therefore likely to be busier at peak periods.
12. The carriageway edge borders a pedestrian footway and landscaped verge. Many existing dwellings have entrance gates abutting the verge. The Council has drawn my attention to the fact that many of these gates are propped open permanently. However, this is not universally the case, and there is no substantive evidence before me to suggest it is prohibited for the gates to be closed. There are no parking restrictions along the road and on-street parking is common.
13. I have not been directed to any specific technical standards for accesses that have been adopted as part of the development plan. However, the Highway Authority objected to the proposal on the basis that the gates are not set back by the recommended minimum 6 metres distance from the carriageway edge.

The concern is that vehicles accessing the host property would obstruct the highway whilst waiting for the gates to open. This, in turn, would cause a highway safety hazard for vehicles, pedestrians and other highway users. There is, however, limited evidence before me to indicate there is a history of accidents or collisions due to the position of other similar gates in the area.

14. Given the gates serve a single dwelling, the number of vehicle movements operating from the site are likely to be very low. Any car waiting to enter the property would also be clearly visible to approaching traffic. Moreover, it is entirely feasible for waiting vehicles to park legally, and safely, on Hopping Jacks Lane whilst the gates are opened. The road is sufficiently wide to enable traffic to pass parked vehicles as is common practice in the local area. Therefore, notwithstanding the proximity of the site to the Nursery Lane junction, the development does not prevent the free and safe passage of vehicles. For the same reason, it is unlikely that it has caused any increase in the risk of collisions with vehicles, pedestrians and other users of the highway.
15. I conclude that the development would not result in unacceptable harm to highway safety. It would therefore be in accordance with paragraphs 110 and 112 of the Framework which, amongst other things, expect developments to minimise conflict between highway users. It would also accord with paragraph 111 of the Framework, which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
16. The Council has referred to conflict with policy DM27 of the CLP in its officer's report. However, this was not carried through to the decision notice. The policy relates to parking standards, which are not directly relevant to this case, and I have not found it to be determinative in my consideration of the appeal.

Other Matters

17. The Council is concerned the development may set a precedent for other, similar proposals to come forward. I have considered the development on its own merits and with regard to the site context at the time of my decision. Those circumstances are unlikely to be identical for other developments, and therefore I attach only limited weight to this matter.

Conditions

18. The Council suggested a condition to require the development to be carried out in accordance with the approved plan. I am satisfied that the development has been constructed in accordance with the submitted drawing and therefore the condition is unnecessary. No further conditions are necessary to make the development acceptable.

Conclusion

19. The development is in accordance with the development plan when read as a whole. Therefore, for the reasons given above I conclude that the appeal is allowed.

E Catchside

INSPECTOR