



Appeal Decision

Site visit made on 13 November 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/T2215/D/23/3323391

The Orchards, 7 The Close, Wilmington DA2 7ES

- 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 Daniel Eldred against the decision of Dartford Borough Council.
- The application Ref DA/23/00113/FUL, dated 2 February 2023, was refused by notice dated 25 April 2023.
- The development proposed is metal railings and automatic entrance gates to driveway.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The metal railings and entrance gates have already been constructed. I am therefore considering the appeal retrospectively.

Main Issue

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

Reasons

4. The appeal site is located within a row of detached dwellings fronting The Close on a bend in the road where the land levels sweep down, opposite an area of open space. Development in the locality is typically set back with a footway and grassed area separating properties from the road. The frontages are varied, but are primarily formed by low brick walls and hedges. A number of the low brick walls are topped with metal railings and include metal entrance gates.
5. The railings and entrance gates form the front boundary and are imposing given their substantial height, accentuated by the difference in land levels. The height of the railings jars with the primarily lower boundary treatment within the locality. The hedge planting provides a minor ecological enhancement, however it offers no screening of the railings and entrance gates, the scale of which would be at odds with the modest height of the frontages in the locality. The existing frontages are typically lower than the railings at the site and the combination of low walls and railings breaks up their overall scale, whilst the taller hedges offer a softer edge to the frontages.
6. I conclude that the development harms the character and appearance of the area. The scheme therefore conflicts with Policies DP2 and DP7 of the Dartford Development Policies Plan 2017 and emerging policies M1 and M11 of the Pre-Submission (Publication) Dartford Local Plan, which collectively requires

development to respond to, reinforce and enhance positive aspects of the locality.

Other Matters

7. The development is required to enhance security for the appellant and their family, including children. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age is a relevant protected characteristic to which the PSED applies. Article 8 of the HRA requires that decisions ensure respect for private and family life and the home. Where the Article 8 rights are those of children, they must be seen in the context of Article 3 of the of the United Nations Convention on the Rights of the Child, which requires a child's best interests to be a primary consideration. I have had children at the forefront of my mind and proportionality is the key.
8. I have carefully noted the appellant's evidence in this regard. I acknowledge the crime statistics for Dartford which have been presented to me. Although the statistics do not indicate that this particular area experiences a high level of crime, I appreciate the consequential fear of crime that has led to the security measures carried out at the site, including the railings and entrance gate. I also appreciate that the enclosure of the front boundary would stop the appellant's dog from escaping the site. Nevertheless, based on the evidence before me I am not satisfied that an alternative scheme which balances the security objectives with the protection of the street scene could not be achieved. Consequently, this does not amount to a material consideration that would outweigh the harm that I have identified.
9. Dismissal of the appeal is therefore necessary and proportionate and would not unacceptably violate family rights under Articles 1 and 8. I have given consideration as to whether any conditions could be imposed to mitigate the harm identified but the protection of public interest cannot be achieved by means that are less interfering of the human rights of property occupants.

Conclusion

10. The proposal conflicts with the development plan as a whole and there are no material considerations of sufficient weight, including the personal circumstances of the appellant, that indicate that a decision should be made otherwise. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR