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# Appeal Decision

Site visit made on 24 February 2024

**by Elaine Benson BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> March 2024**

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**Appeal Ref: APP/W1525/D/23/3326707**

**3 West Avenue, Chelmsford, Essex CM1 2DB**

- 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 Harshal Mittal against the decision of Chelmsford City Council.
  - The application Ref 23/00611/FUL, dated 11 April 2023, was refused by notice dated 30 June 2023
  - The development proposed is retention of front garden fence.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the appeal proposal on the character and appearance of the surrounding area.

## Reasons

3. The fence is in place and partially encloses the front garden of the appeal property. It is around 1.8m high and comprises close boarded fence panels. Whilst I consider the Council's description of the openness of the area to be somewhat overstated, the position, height and length of the fence appears dominant and intrusive within the street scene. This contrasts with other front boundary treatments in the locality which generally comprise low-level hedges or fences, or open frontages. Furthermore, in urban design terms the fence creates a sense of hostile enclosure along West Avenue to the detriment of its character and also prevents any passive overlooking of the street which can contribute to safer environments.
4. The appellant's concerns about overlooking of the front of the property, particularly from the bus stop and the multi-occupied house opposite have been considered. Criminal activity and anti-social behaviour are more appropriately addressed by other means. However, the position of the fence does not remove all overlooking of the house windows and this argument is unconvincing. But in any event, these are not good reasons for permitting harmful development. Furthermore, there are alternative boundary treatments, such as the higher hedging found in the locality, which could achieve the same aims, whilst respecting the character of the area and avoiding the creation of a visually hostile means of street enclosure.

5. I have not been provided with the details or circumstances of the other fences in the area referred to by the appellant and it is unclear whether they have the appropriate consents. But in any event, the appeal proposal has been determined on its own unique circumstances and existing harmful development is not a sufficient reason to permit development that further adds to this harm.
6. For the reasons given above, I conclude that the appeal fencing does not contribute positively to the area and harms the character of the part of the street in which it stands. It therefore fails to comply with Chelmsford Local Plan Policy DM23. In summary and among other things, this policy requires development, including boundary treatments, to respect the character and appearance of the area in which it is located and to have active elevations and to create safe, accessible and inclusive environments. The proposal is also counter to the similar requirements of the National Planning Policy Framework.
7. For the reasons set out above and having regard to all other matters raised the appeal is dismissed.

*Elaine Benson*

INSPECTOR