
Appeal Decision

Site visit made on 20 November 2024

by **J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 December 2024

Appeal Ref: APP/W1525/D/24/3349942

The Briars, Castledon Road, Downham, Essex CM11 1LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr James Gibbons against the decision of Chelmsford City Council. The application Ref is 24/00182/FUL.
 - The development proposed is erecting new fence and entrance walls to driveway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the development has been undertaken, I have dealt with the appeal on the basis that it involves an application for retrospective permission. I note, however, that despite the description of development, the Council indicates that the entrance walls to the driveway do not form part of the application. I have, therefore, dealt with the appeal on the same basis as the Council and considered the effects of the new fence only.

Main Issue

3. The main issue is the effect of the fence that has been erected on highway safety.

Reasons

4. The appeal property is a detached dwelling located in a rural village setting on the west side of Castledon Road, within the Green Belt. The appeal property and its neighbours are set well back from the road frontage, with driveways providing access onto the road.
5. Reference is made to a previous unsuccessful application concerning the same fence¹. While I note this earlier application and decision, I have considered the current proposal on its own merits.

¹ Ref 23/01054/FUL.

6. Castledon Road has a speed limit of 30mph; consequently, visibility splays for accesses onto the road should be 43 metres in both directions, 2.4 metres from the edge of the carriageway at the centre point of the access.
7. The concerns raised by the Highway Authority are that the fence that has been erected harmfully impedes the visibility from The Briars' access to the left, or northwards; and it has the same harmful effect on the access from the neighbouring property, Mount Holly, to the right, or southwards.
8. As I observed at the inspection, Mount Holly has a short post and rail fence along the front boundary south of its access, with the fence in front of The Briars beyond this. The curve of the road at this point combined with the position and distance of the metal fence in front of The Briars means that there is sufficient visibility to the south for vehicles safely to leave the access to Mount Holly.
9. With regard to The Briars, the boundary fence is largely straight for most of its length, but is angled in for a short length at both ends. Closest to the access the fence joins the side wall next to the access. From the requisite setback from the carriageway edge the position of the fence running out from the wall towards the road does restrict the necessary visibility to enable a driver to fully see oncoming traffic. As such, the fence impinges on the visibility splay looking northwards and does, therefore, harmfully affect the ability of a vehicle safely to leave the property.
10. I have had regard to the appellant's contention that the fence needed to be replaced in this form for security purposes and because the previous fence was dilapidated. However, these matters do not overcome the above finding that the existing fence in this position harmfully comprises highway safety. Reference is also made to other properties in the surrounding area where similar fencing is in place. However, these other examples are not specified and in any case I have considered the appeal proposal on its merits and, therefore, any similar boundary treatments that might exist are not sufficient reason to set aside the harmful effects that have been found in this case.
11. Therefore, for the reasons given, I conclude that the fence that has been erected has a materially harmful effect on highway safety. Consequently, it is contrary to the National Planning Policy Framework, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety².

Conclusion

12. For the reasons given it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

² Paragraph 115.