



Appeal Decision

Site visit made on 5 February 2025

by **Eleni Marshall BSc (hons) MSc FRICS FAAV MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/W1525/D/24/3354642

Arundene, Elm Green Lane, Danbury, Chelmsford, Essex, CM3 4DW

- 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 Phil Harding against the decision of Chelmsford City Council.
 - The application reference is 24/00893/FUL.
 - The development proposed is construction of a new front entrance sliding gate and piers.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the determination of this application, and the submission of this appeal, the revised National Planning Policy Framework 2024 (the Framework) came into force on 12 December 2024. Given the refusal reason and the nature of the changes to the Framework I am satisfied that the changes do not materially impact upon the determination of the appeal in this case.

Main Issues

3. The main issues are the impact of the proposal upon i) the character of the area and ii) highway safety.

Reasons

Character of the Area

4. The appeal site is a two-storey detached property located off Elm Green Lane. At the time of my site visit I noted that the properties along the lane are generally detached, within generally spacious plots, and of varying appearance and scale. The lane is lined with trees and vegetation which, combined with properties being set back from the road and the open frontages, contributes to the verdant and spacious feel around the dwellings along the lane. Boundary treatments, within the vicinity of the appeal site, are generally low level and of a design which allows views through, and over, towards their respective properties from the street scene. This would be a direct contrast to the solid sliding gates which are the subject of this appeal proposal. The existing boundary treatments, and gates, I find contribute to the open, green, character and appearance of the area. There were no examples of solid, gated, boundary features as proposed within this appeal.
5. Whilst I note that the site stands within the defined settlement boundary, I do not find that, as a result of the character and appearance I have identified above, that the setting could reasonably be described as urban in visual terms. I find that the

proposal stands within what is, visually, a more rural than urban setting as a result of the spacious, green, layout of dwellings within the vicinity with Elm Green Lane being just that – a lane without, for example, a pavement or other such features more commonly found within more urban settings. I acknowledge, therefore, that the proposal is within the settlement boundary but do not find that it is visually urban in setting. Whilst the modern entrance styles may be prevalent across urban areas in the wider district, I do not find that such a style is characteristic within the context of the appeal site that is before me.

6. It is noted that the site is not located within a conservation area or in close proximity to a heritage asset nor that there are any designations which would make the surrounding area particularly sensitive to development. This does not, however, downplay or reduce the requirement for appropriate and good design which takes into account the character and appearance of the setting within which it would be viewed. There not being many examples of similar development in the area is a determinative factor, and material consideration, insofar as it supports that the proposal would be uncharacteristic for its location and would result in an incongruous and alien form of development which would inappropriately contrast with other boundary features and the setting of the appeal site.
7. The proposal that is before me seeks to construct two high-level brick pillars measuring in the region of 1.92 metres in height combined with the installation of a solid timber sliding gate measuring in the region of 1.74 metres in height and 7 metres in length. There are some examples, noted by the Council and as noted at the time of my site visit, of walls and fencing but I find that these are generally low-level features, set behind vegetation with there being no high-level gates, railings or walls or fencing of a solid nature which have any presence within the street scene along Elm Green Lane. The gates which are present appeared to generally be wooden gates which allow views through and are more appropriate for the rural location and, as outlined, allow views over and through the boundary treatment.
8. I find that the proposal due to its design, which is more contemporary, urban and solid in nature, would represent a visually harmful feature which I find would be out of keeping with the prevailing character and open appearance of the locality. A high level, solid, gate would contrast starkly with the hedge and traditional boundary treatments within the street scene and would result in a solid structure of excessive height which would appear as prominent and intrusive. The proposal would, overall, result in harmful impact to the open and green aesthetic of the vicinity as a result of incongruous development within the rural setting.
9. I note, from both parties' submissions, that a Certificate of Lawful Proposed Development (24/00410/CLOPUD) has been issued for the construction of a new front entrance sliding gate and associated masonry columns. Whilst this is noted, as a fallback position as to a boundary treatment, it should be kept in mind that (in order to comply with the requirements of Permitted Development) this certified development is not taller than 1 metre due to being adjacent to the highway. I acknowledge that the design and appearance of the certified boundary treatment would essentially be beyond the control of the Council, however, regardless of design the certified development would be notably lower in height than the boundary treatment which is the subject of this appeal.
10. The appellant outlines a discussion as to site levels. Appendix A includes a site survey, and I note section A-A on drawing no. 885/04 REVD. I do not find,

however, that site level differences in this case are such that the perceived visual prominence of the gate would be significantly reduced. Based upon my site visit, I found that the difference in site levels from the highway to the proposed gate location was visually limited and even if the height had been acceptable as a result of the levels – this would not overcome the issue as to the solid design being uncharacteristic for the area. I acknowledge the appellant's reiteration of privacy concerns, but I do not find that this overcomes the issues I have found and, furthermore, such issues have arguably been mitigated on other properties, as evidenced within the photographs provided, by hedge lines and more appropriate, softer, forms of screening. Security is a consideration, but it does not mean boundaries should be industrial in nature nor fail to successfully integrate with the surroundings.

11. I acknowledge that the Appellant could apply for a lawful development certificate for a wall, fence, gate, etc potentially for the whole width of the site being 1 metre above the highest point of natural ground level. This has not been certified at the point of determination of this appeal. Whilst I acknowledge the comparisons between length and height noted within the appellant's statement (4.8 to 4.10 inclusive) I do not find that this is sufficient to justify the proposal that is before me. Notwithstanding this, it is not within the scope of this appeal to consider what would, or would not, be permissible under permitted development – such an approach should be considered, and evidenced, via a Certificate of Lawfulness as has been the case for the construction of a new front entrance sliding gate and associated masonry columns under 24/00410/CLOPUD.
12. I acknowledge, and attribute weight to the principle of a fallback position with greater weight attributed in this case to the Certificate of Lawful Proposed Development which has been granted, however, I place more limited weight upon the stated potential for the whole width of the site as set out as there are several factors, in this case, which would need clarification and certification for this to carry greater weight within the context of this appeal. Despite this I do not find that such a fallback would result in the same harm as the high-level, solid, boundary treatment which is the subject of this appeal.
13. The appellant includes, as appendix B, an appeal relating to land at Watercress Close (APP/K1935/C/20/3251206), however, there does not appear to be any reasoning or context for inclusion of this decision letter¹. I can only assume that, with reference to paragraph 1.4 of the appellant's statement, that this decision letter has been included on the basis that the appellant considers that the development does not lie adjacent to the public highway and as such is able to rely on permitted development rights as a legal fallback. I would reiterate that it is not within the scope of this appeal to consider whether a proposal would, or would not, fall under the scope of permitted development and in that regard I do not find that it would be appropriate within the context of this type of appeal to consider whether the proposal would, or would not, be adjacent to the public highway in the context of permitted development (but note that the Council do, for example, consider the proposal to be adjacent to the highway as discussed in the context of 25/00410/CLOPUD).

¹ The Appellant's Statement attaches three Appendices (A, B, and C respectively) 0 making specific reference to the relevance of Appendix A and C respectively, but no reference is made within the supporting commentary as to the intended relevance of Appendix B

14. Based upon the evidence before me, and my site visit, I find that the solid nature of the proposed gate would be unacceptably inconsistent with the character of the area as well as contrasting sharply with the boundary features, and landscaping, generally found within a visually rural setting. The proposal would be incongruous with the prevailing low level and rustic boundary treatments with examples of gates, as discussed, being lower level and/or able to permit views over and through to their host dwellings.
15. The proposal would be contrary to Chelmsford Local Plan 2020 Policy DM23 which confirms that planning permission would be granted for development that respects the character and appearance of the area in which it is located. Development must be compatible with its surroundings having regard to scales, siting, form, architecture, materials, and boundary treatments.
16. The proposal would also be contrary to paragraph 135 of the Framework which seeks to ensure that development will function well and add to the overall quality of the area and are sympathetic to local character including the surrounding built environment and landscape setting. The proposal would also be contrary to the guidance contained within the Making Places - Supplementary Planning Document 2021 which outlines that boundaries are important in defining the character of a place and the quality of a street. .

Highway Safety

17. Drawing number 885/03 REVD shows that the proposed gate would be set back 6 metres from the edge of Elm Green Lane. Whilst the appellant makes reference to Essex County Council Parking Standard Design and Good Practice 2009 (Appendix C) the Council's delegated report, and refusal reason, fails to give reasoning or justification (in the context of policy or Council guidance) as to the recommended minimum 6 metre distance stated. Despite this, and regardless of the reasoning of the stated 6 metres (whether that is to allow a vehicle waiting for the gates to be open or in case a vehicle parks outside), it can be evidenced from the plans that the gates would be set back sufficiently. I find that the proposal would be unlikely to result in vehicles waiting in the carriageway while the gates are opened or closed or cause an obstruction should a vehicle park outside the gate (for example a postal or parcel delivery to the appeal site).
18. On this basis and taking into account that the appellant could erect boundary treatment as certified in 24/00410/CLOPUD which would result in largely the same impacts the context of this second main issue (i.e. a boundary feature regardless of height or material in the same location) I do not find that the proposal would create an unnecessary and unwelcome degree of hazard for emerging and approaching vehicles, pedestrians and other highway users to the detriment of highway safety and efficiency. In addition, I note that there is no consultation response from Essex County Council as the Statutory Highway Consultee which would support, or further evidence, concern with specific regard to highway safety in the context of the second refusal reason that is before me.
19. Overall, based upon what I saw at the time of my site visit and the evidence and plans before me, the proposed gate would be set back sufficiently from the edge of the carriageway so as to allow waiting vehicles to remain clear of Elm Green Lane and that safe and suitable access to the site can be achieved for all users. The proposal would be acceptable in the context of paragraph 116 of the Framework

which confirms that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

20. I note that Danbury Parish Council consider the solid design and the height of the proposal to be too imposing, out of character with the street scene and have a negative impact on the openness of the lane. This comment is acknowledged, and I have dealt with matters relating to character and appearance of the area within the context of the first main issue within this decision letter.

Conclusion

21. For the reasons outlined above, and into taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Marshall

INSPECTOR