



Appeal Decision

Site visit made on 18 February 2025

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal Ref: APP/B1550/W/24/3350361

13 Creswick Court, London Road, Rayleigh, Essex SS6 9HW

- 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 Robert Mears (Able Life Ltd) against the decision of Rochford District Council.
 - The application Ref is 23/00143/FUL.
 - The development is the enclosure of grass verge and incorporation to use as private domestic garden facilitated by erection of close boarded timber fences.
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Decision

1. The appeal is allowed and planning permission is granted for the enclosure of grass verge and incorporation to use as private domestic garden facilitated by erection of close boarded timber fences at 13 Creswick Court, London Road, Rayleigh, Essex SS6 9HW in accordance with the terms of the application, Ref 23/00143/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawings titled: front elevation (scale 1:50), front fence side elevation (scale 1:50), block plan showing location of new fence (scale 1:200) and location plan (scale 1:1250).

Preliminary Matters

2. A revised National Planning Policy Framework was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.
3. The application was submitted retrospectively, and I saw during my site visit that the close board timber fences were in place and the appeal site was being used as a private domestic garden. I have therefore considered the appeal on a retrospective basis.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

5. The appeal property is a three-storey terrace dwelling facing London Road, with access via Creswick Court to the rear. Located to the front is a relatively large front garden raised slightly above street level and supported by a brick retaining wall adjacent to the pavement. The front gardens for this row of dwellings appears to have been originally designed as an open space without any physical boundaries between properties. However, I noted during my site visit that a number of the front gardens were now enclosed with the use of fencing or trees and hedging.
6. The development subject to this appeal is close boarded timber fencing around the front garden of 13 Creswick Court at just under 2 metres in height. This adjoins the existing fencing surrounding the property at 14 Creswick Court, which although does not benefit from planning permission, has become lawful due to the length of time in situ, as evidenced by the appellant in a letter from the Council.
7. The Council's Housing Design Supplementary Planning Document 2 (the SPD) 2007 states that grass verges and open amenity areas were usually intended to be an integral part of estate design and layout and where such areas continue to make an important contribution in this respect and where neglect is not a problem the Council will prefer to see their retention rather than enclosure into an adjacent private garden.
8. The front garden of the appeal site is in a prominent position, adjacent to London Road, and it appears that this open amenity area to the front of this row of dwellings was intended to be part of the original design of the properties. However, due to the presence of numerous forms of enclosure in the area, including at No.14, this sense of openness has already been largely eroded. Whilst some of the boundaries may not have been granted planning permission, they still form part of the character of the area. Therefore, whilst the SPD indicates that the Council prefer the retention of such areas, I do not consider that the appeal development is detrimental to the character and appearance of the area.
9. Therefore, for the reasons above, the development does not result in harm to the character and appearance of the surrounding area and does not conflict with Policy DM1 of the Rochford District Council Development Management Plan 2014. Part (x) of this policy seeks to ensure that the design and layout of development must demonstrate that a positive relationship with existing and nearby buildings has been carefully considered and addressed.

Conditions

10. I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. However, as I have found that the development is not detrimental to the character and appearance of the area, a condition relating to the submission of a landscaping scheme, suggested by the Council, is not necessary to make the development acceptable.

Conclusion

11. For the reasons given above the appeal is allowed.

E Grierson

INSPECTOR