



Appeal Decision

Site visit made on 21 May 2025 by E Clifford BA (Hons) MA

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2025

Appeal Ref: APP/A1530/D/24/3354762

Torena, Mersea Road, Colchester, Essex CO2 0BU

- 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 Miss Gianina Lungu against the decision of Colchester City Council.
 - The application Ref is 241591.
 - The development proposed is entrance gate to driveway.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The planning application form gives the agent's name as the applicant. However, it is clear from the decision notice that the name of the applicant was in fact Miss Gianina Lungu and, as the appeal has also been made in this name, I have included it in the appeal banner heading.

Main Issue

4. The main issues are:
 - a) the effect of the proposed development on the character and appearance of the area; and
 - b) if there is any harm under the first main issue, whether such harm is outweighed by the personal circumstances put forward by the appellant.

Reasons for the Recommendation

Character and Appearance

5. The appeal property is located on the edge of an urban suburb. To this section of Mersea Road only one side of the road is populated by houses. The other side is lined by a hedgerow with fields beyond, giving the area a semi-rural character. The dwellings to this section of Mersea Road are more often set back from the road, with frontages laid to lawn or driveways and are typically bound by a low wall or shrubbery. Indeed, the host dwelling is set back from the road which together with

the tall mature hedge to the front boundary and the open driveway, suitably responds to the spacious and verdant characteristics of the locality.

6. Due to their substantial height, solid composition, and close proximity to the boundary with Mersea Road, the proposed gates and associated brick pier and wall would be an incongruous and an unduly prominent feature. There would be a striking contrast between the scale and design of the proposed development when compared with the generally low level hard boundary treatments and soft planting to other frontages. This would be noticeable to those passing by the site, particularly when travelling towards the site in a northerly direction where the development would not be screened by the existing front boundary hedge.
7. Moreover, when seen alongside the existing high hedge, the development's height and solid design would unacceptably reduce intervisibility between the appeal site and the road. This would result in the appeal site appearing overly fortified. Even if a gate up to 1.0m in height could be erected under permitted development rights, this would not have the same visual effects as the taller appeal proposal.
8. In addition, the appellant suggests that they intend to erect a 1.8 metre high fence to the boundary with 'Firdale' and this is shown on the plans. I acknowledge that the fence does not form part of the appeal proposal. However, I have no reason to doubt that the appellant would not erect this fence if it could be carried out under permitted rights. The identified fortifying effects of the proposed development would only be further compounded in such a scenario.
9. For all the above reasons, the proposed development would significantly detract from the overriding spacious and verdant character of the immediate surroundings.
10. The appellant has drawn my particular attention to means of enclosure at neighbouring dwellings and buildings at locations '17 – 23 inclusive' in the 'Contextual Analysis' appended to their statement of case. In those instances, boundary treatments including walling are mainly lower in height than the appeal proposal. Other than the gates depicted at 'Location 21', in the limited instances where gates have been installed to front boundaries they are mostly not of a solid composition and have gaps in their structure. Therefore, these examples do not indicate that the proposal would reflect the prevailing character of front boundary treatments serving residential properties on Mersea Road.
11. With regards to a '2-metre-high automated wooden sliding gate' which was approved by the Council in 2023, from what I can ascertain, that particular site is not close to the appeal site. The design of the gate in that instance is also different and includes gaps within its upper sections. In any case, this limited example does not justify harm I have identified having regard to the proposed development's design and site-specific context.
12. In conclusion, I find that the proposal would have a harmful effect on the character and appearance of the area. In that regard, it would conflict with Policy SP7 of the Colchester Borough Local Plan - Section 1 (2021) and DM15 of the Colchester Borough Local Plan- Section 2 (2022) (LPS2) which require ensure that all new development is of high standard of design which respects and responds positively to local character and context. The proposal would also be contrary to the National Planning Policy Framework which seeks to ensure that development is sympathetic to local character.

Personal Circumstances

13. Paragraph 12 of the Framework confirms, amongst other things, that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
14. I have given due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to the provisions of the Human Rights Act 1998.
15. In these respects, I am aware that the appellant has ongoing mobility needs and acknowledge their associated vulnerabilities. The appellant has indicated that the proposal would provide a physical defence between the public and private realm and that the increased security would improve their confidence in living independently. I have no reason to doubt that this would be the case and that, in this regard, the proposal has the potential to be beneficial to the appellant's quality of life and wellbeing. This is a personal circumstance to which I afford weight in favour of the appeal.
16. However, there is nothing to suggest that a scheme could not be devised which provides the desired security, but which is more sympathetic to the character and appearance of the local area. In weighing the personal circumstances in the balance, this has to be considered against the unacceptable effect that the development would have on the character and appearance of the area.
17. Overall, a refusal of planning permission is a proportionate and necessary approach to protect the character and appearance of the area for the wider public. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the specified family member's human rights and the personal circumstances put forward do not outweigh the unacceptable effects of the proposal.

Other Matters

18. My attention has been drawn to crime statistics for the broad administrative boundary of 'Colchester Rural South' and the appellant also indicates that Colchester has a higher-than-average rate of crime when contextualised within the Essex force area. I also accept that Policy DM15 of the LPS2 requires that developments proposals must demonstrate that they will create a safe, resilient, and secure environment, which supports community cohesion and is not vulnerable to neglect. However, there is nothing to suggest that the immediate area where the appeal site is situated has been particularly vulnerable to crime. Furthermore, it has not been demonstrated that other security measures of a different nature or design could not be utilised which better respond to the character and appearance of the area.
19. A personal condition requiring that the proposed development be removed in the event that the appellant no longer resided at the site could not reasonably be enforced. It would also not remove the harm to the character and appearance of the area for the duration of the period that they would be in situ.

Conclusion and Recommendation

20. The proposal would be contrary to the development plan and material considerations that have been advanced in this instance do not justify a decision other than in accordance with it. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

E Clifford

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

M Russell

INSPECTOR