



Appeal Decision

Site visit made on 25 July, 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th August, 2017

Appeal Ref: APP/Z1510/W/17/3173070

Sennen, Queenborough Lane, Braintree, Essex, CM77 7QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robert Crow against the decision of Braintree District Council.
 - The application Ref: 17/00233/FUL dated 7 February, 2017 was refused by notice dated 28 March, 2017.
 - The application sought planning permission for corrugated dark grey roof and dormer windows to artist's studio in rear garden (existing) without complying with a condition attached to planning permission Ref: 16/01099/FUL dated 15 August, 2016.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the approved plans listed above. Within six months of the date of this permission, the dormer windows shall be removed and replaced with a velux window and the existing roof cladding shall be removed and replaced with slate in accordance with the approved plans listed above.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is allowed and planning permission is granted for erection of artist's studio and store in garden at Sennen, Queenborough Lane, Braintree, Essex, CM77 7QD in accordance with the application Ref: 17/00233/FUL made on the 7 February, 2017 without compliance with the conditions previously imposed on the planning permission Ref: 16/01099/FUL granted on 15 August, 2016 by the Braintree District Council.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on the living conditions of the occupiers of neighbouring dwellings with respect to overlooking and privacy.

Preliminary Matters

3. The Council has informed me that it is working on a new Local Plan, which has been subject to public consultation. As however it has not yet been subject to examination and its policies may change, this reduces the weight I can accord
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it. I have therefore determined the application in accordance with the policies of the Braintree District Local Plan Review 2005 (the LPR)

4. The structure which is the subject of the appeal has already been built.

Reasons

Character and appearance

5. Sennen is a substantial dwelling in yellow brick and timber cladding. It sits in a modern housing development, Great Notley Garden Village, comprising other large houses in a variety of styles and materials loosely echoing local vernacular and polite architectural traditions. The appeal building, an outbuilding, sits within the garden area of Sennen.
6. Although described by the Council as a solid permanent structure, more substantial than the average summer house or shed, the outbuilding has a relatively modest footprint, akin to that of an average shed. It is neatly constructed and clad in timber weatherboarding painted white, with a pitched gabled roof covered in a dark corrugated material. The two elevations facing into the garden are extensively glazed at ground floor level, giving it an open appearance and facilitating its use as an artist's workshop. As a result of the design and materials it does not appear to me to be harmfully solid or substantial, or overbearing in relation to the host building, nor can I see any reason why an outbuilding should not appear permanent.
7. The roof space is floored over for half of its area, and reached by a loft ladder. At the time of my site visit it was in use for storage, and is evidently not sufficiently high to stand up in. The dormer window takes up between a third and a quarter of the width of the roof slope and does not occupy its full depth and as a result does not greatly add to the bulk of the building at roof level and is not a particularly dominant.
8. It appears to me therefore that the roof could not be used for accommodation, and that the purpose of the roof dormer is primarily to provide additional light rather than headroom, while it is a minor incident in the roof plane, therefore following the approach of the Essex Design Guide. I conclude also that the appeal building is of one and a half rather than two storeys, and that the dormer not particularly visually disproportionate at roof level, not therefore giving rise to a particularly top-heavy appearance to the building which would cause harm to the character and appearance of the area
9. While slate or artificial slate are in use, there is variety in the roofing materials in the area, with many of the houses and subsidiary buildings making use of concrete roof tiles. The sustainable corrugated roof material is modest in appearance, and echoes the traditional use of corrugated iron in agricultural and other functional buildings. Due to its dark colour and matt appearance it is not particularly obtrusive. Consequently, it appears to me that the use of this more workmanlike material, along with the relatively high eaves and steeply pitched roof, reflects the design of some traditional working buildings, and appropriately emphasises the subsidiary relationship of the workshop to the polite architecture of the host dwelling. It is not therefore in conflict with the design approach taken in the wider area.
10. The appeal structure therefore accords with policy RLP 3 of the LPR, which seeks development which can take place without material detriment to the

existing character of the settlement and with policy RLP 90 of the LPR, which seeks development which reflects or enhances local distinctiveness. Policy RLP 17 of the LPR relates to residential extensions, but requires a compatibility with the original dwelling and seeks to avoid any material impact on the scale and character of the area. Although an outbuilding rather than an extension, the appeal building nonetheless does not conflict with these aims.

Living conditions

11. The garden of Sennen is bounded by a high brick wall and backs onto a parking area relating to houses to the rear, with the blank gable end of a dwelling just to the north and slated outhouse/garage roof directly to the south. It is set down in level from the house. The glazed areas of the outbuilding face into the garden of the host dwelling and the dormer window faces its rear elevation. The dormer window, which in any case looks out from an uninhabitable roof space, would not as a result give rise to any harmful overlooking of the rear garden of Sentosa, or of any other neighbouring properties.
12. The development does not therefore conflict with policy RLP 90 of the LPR, which seeks development with no undue or unacceptable impact on the amenity of any nearby residential properties.

Conditions

13. As the appeal development has already been completed, it is not necessary for me to attach a condition relating to the commencement of development, nor to the external materials and finishes. As I have concluded above, Condition 2 relating to implementation of the development in accordance with the approved plans is not necessary.
14. Paragraph 200 of the National Planning Policy Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. Planning Practice Guidance advises that such conditions will rarely pass the test of necessity and should only be used in exceptional circumstances. No clear justification for such a condition has been put before me, and I am not convinced that such exceptional circumstances exist. I have not therefore repeated this condition from the original planning permission.
15. As the outbuilding is relatively small and lacks services such as plumbing which would support its use as living accommodation I conclude that this would be unlikely. I conclude that it would not therefore be proportionate or reasonable to attach a condition preventing this occurring.

Conclusion

16. For the reasons given above therefore, and taking into account matters raised, I conclude that the appeal should succeed.

S J Buckingham

INSPECTOR