
Appeal Decision

Site visit made on 1 October 2019

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/Z1510/D/19/3233876

43 Brain Valley Avenue, Black Notley CM77 8LS

- 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 John Davey against the decision of Braintree District Council.
 - The application Ref 19/00515/HH, dated 15 March 2019, was refused by notice dated 13 May 2019.
 - The development proposed is demolition of existing garage, erection of two storey side extension with single storey rear extension and front porch with canopy roof.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An emerging plan, the Braintree District Publication Draft Local Plan, was submitted to the Secretary of State on 9 October 2017 and is currently under examination. It is not part of the development plan. As it is not clear the extent to which any objections to its policies are unresolved, I give it limited weight.

Main Issues

3. The main issues are the impact of the proposed development on (i) the street scene and (ii) the living conditions of the occupants of 45 Brain Valley Avenue with regard to daylight and sunlight.

Reasons

4. The appeal building is a two-storey, semi-detached modern dwelling, situated within a row of similar properties. Originally the pairs of dwellings in this part of the road were uniformly separated by side-to-side driveways, with garages to the rear. Some of the spaces between buildings have been reduced, including between the appeal property and its neighbour No 45, by two-storey extensions built up to the side boundaries. Where this has occurred the gaps between dwellings have not been lost entirely. In any case, these instances are not so common as to be the defining characteristic of the street.
5. The proposal would result in the complete loss of the gap between the host dwelling and its neighbour No 45. The appellant argues that other similar development has already taken place. I do not know the circumstances in which these examples were permitted but, in any event, they do not have the same adverse effect as the appeal scheme in terms of being directly adjacent

to another extension and creating a terrace effect. Notwithstanding the attention that has been given to the design of the proposal, by incorporating breaks in the line of the front elevation, this is not sufficient to offset the harm that the resulting terracing effect would have. The loss of the open character would fundamentally alter the street scene to its detriment.

6. In addition, although the Council does not reference it on the decision notice, the officer report raises concerns regarding the design of the proposed rear projection. In my opinion, the scale and form of this element would be incongruous and out of keeping with the host building and other properties in the street, none of which have anything similar. This finding adds weight to my overall conclusion that the proposal would harm the street scene, contrary to Policies RLP17 and RLP90 of the Braintree District Local Plan Review 2005 (LPR) and Policy CS9 of the Braintree Core Strategy 2011 (CS). These policies are consistent with the National Planning Policy Framework in seeking to ensure good design in development proposals.
7. Notwithstanding my findings in respect of the effect of the rear projection on the appeal building, I am not convinced that the proposal would significantly diminish the amount of daylight reaching the adjacent first floor window of No 45, such as to harm their living conditions. Whilst the plans show a minor transgression of a 45 degree splay drawn from that opening, it does not automatically translate into material harm. The affected window is a full height, two panel, patio style glazed door with a Juliet balcony. This, together with the modest depth and height of the proposed first floor rear projection, would serve to ensure that the effects on daylight and sunlight for the neighbours are within reasonable limits.
8. I therefore conclude that the scheme would not give rise to unacceptable effects on the living conditions of the occupants of No 45 in respect of loss of daylight and sunlight. Therefore, no conflict arises with the relevant provisions of Policies RLP17 and RLP90 of the LPR and Policy CS9 of the CS in relation to the living conditions of the occupiers of No 45. However, this matter does not outweigh the harm I have found in relation to the street scene.

Conclusion

9. For the reasons given above, and having regard to all other matters raised including the benefits to the appellant of providing additional accommodation, the appeal is dismissed.

S Tudhope
Inspector