
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: 5 November 2019

Appeal Ref: APP/Z1510/W/19/3233734

48 Nelson Gardens, Braintree CM7 9TG

- 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 D Boodrie against the decision of Braintree District Council.
 - The application Ref 19/00701/FUL, dated 16 April 2019, was refused by notice dated 22 July 2019.
 - The development proposed is erection of 1x 3-bedroom detached house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Braintree District Publication Draft Local Plan (2017), was submitted to the Secretary of State on 9 October 2017 and is currently under examination. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework 2019 (the Framework), I give it limited weight in this appeal.
3. The submitted plans show three different 'red line' application site areas. Notwithstanding this inconsistency, it is clear from the evidence before me that both parties have proceeded on the basis of the site area on the plan 'Proposed Sketch Site Plan Drawing Number 20/100/03'. I have therefore based my decision accordingly.

Main Issues

4. The main issues are: (i) the effect of the proposed development on the street scene; (ii) whether the proposal would provide acceptable living conditions for its future occupiers with regard to outlook, daylight and outdoor space; (iii) the effect of the proposal on the living conditions of the occupiers of neighbouring properties with regard to privacy and (iv) the effect on highway safety.

Reasons

5. The appeal site is the side garden area of a detached, two-storey dwelling, situated at the end of a cul-de-sac, which otherwise predominantly comprises semi-detached dwellings that are separated by pairs of detached garages. There is a regularity to the general street scene that is emphasised by the gaps between the properties.

6. Despite the intention to use matching materials and to orientate the proposed dwelling to align with No 48 Nelson Gardens (No 48), because of its position away from the road frontage, in close proximity to No 48 and the position of the proposed access, which would dissect the front garden and pedestrian access of No 48, the appeal dwelling would appear out of character with and disconnected from the street scene. The general pattern of development would be disrupted by the squeezing in of the proposed dwelling. The characteristic sense of openness would be lost from this part of the street such as to cause harm to the street scene.
7. In addition, the siting would result in the rear elevation of the proposed dwelling being so close to the rear boundary that its future occupiers would have a very restricted outlook. This, coupled with the staggered position of the proposed dwelling in relation to No 48, would result in the ground floor rooms at the rear of the appeal property receiving unsatisfactory levels of daylight. The outlook at the front of the property, either directly onto the side elevation of the proposed garage or over the proposed parking area and onto the existing garage, would not alleviate the unsatisfactory living conditions for future occupiers that would result from the layout of the scheme.
8. The parties disagree in respect of the size of outdoor amenity space that would be provided. However, irrespective of the precise measurements, the proposed layout would result in the useable garden area being to the side of the property out of sight of the occupants. This, along with the sense of enclosure that would be created by the expanse of blank brick walls partially surrounding the proposed garden, would result in unsatisfactory external amenity space for the future occupants.
9. Turning to the impact of the proposed development on the living conditions of the occupiers of neighbouring properties. The proposed dwelling would be of two-storey form and would be situated with its rear elevation very close to the rear boundary of No 323 Coggeshall Road (No 323). This position and the blank side elevation would ensure a satisfactory relationship with the neighbouring property to the west of the site. In addition, its position, in conjunction with the intervening features of the existing double garage of No 48 and the proposed garage, would prevent any significant loss of privacy to the garden area of No 46 Nelson Gardens.
10. However, whilst I agree with the appellant that the window to window relationships between the appeal dwelling and No 323 would be more than acceptable, nonetheless, occupants of the proposed dwelling would be able to look directly into the rear garden of No 323. The provision of a two-storey dwelling so close to the rear garden of that neighbour would significantly reduce the level of privacy experienced by its users.
11. The Highway Authority advise that the proposed access to the highway, due to its width and the angle at which it would meet the highway and the manoeuvring arrangements that it would necessitate, is unsatisfactory and would result in the use of third-party land in order to access and egress the site. I do not dispute the assurances of the appellant that they would be able to provide/retain legal rights of access for the occupiers of both the donor property and the proposed dwelling. However, from the evidence before me, I agree with the Highway Authority that use of the proposed access by motor vehicles would necessitate use of third-party land (No 83 Nelson Gardens).

12. The proposed arrangement would be impractical in parking terms. Cars would have to be either reversed out of the driveway onto the highway or reversed from the highway into the parking spaces. Inevitably there would be many occasions when the car furthest from the road is needed, requiring the other car to be moved first. The amount of manoeuvring that this would involve, in front of No 48 and on the highway, is not acceptable. Inconvenience and possibly the safety of other road users is likely to occur. The proposed access would also, as I previously mentioned, result in an unsatisfactory visual relationship with No 48, to the detriment of the street scene.
13. For the above reasons I therefore conclude that the proposed development would have a harmful impact on the street scene; would not provide acceptable living conditions for its future occupiers in respect of outlook, daylight and outdoor space; would have a harmful effect on the privacy of the occupants of No 323 Coggeshall Road and would not provide satisfactory access arrangements to the detriment of highway safety.
14. Consequently, the proposal would conflict with Policies RLP 3, RLP 9, RLP 10, RLP 56 and RLP 90 of the adopted Braintree District Local Plan Review 2005. Together these policies seek, amongst other matters, to ensure that the layout, height, mass and overall elevational design of buildings and developments shall be in harmony with the character and appearance of the surrounding area. In addition, they require development to respect neighbouring amenities and highway safety. The proposal would also be contrary to the aims and objectives of the Framework which require developments to provide a high standard of amenity for both existing and future users.

Other Matters

15. The appellant considers that the Council cannot currently demonstrate a five-year supply of deliverable housing sites and that the addition of the proposed dwelling would reduce the housing market requirements thus providing social and economic benefits. The Council has not provided any evidence in respect of this matter. However, even if I were to conclude there is a shortfall in the five-year housing land supply, the adverse impacts of granting permission that I have identified above would significantly and demonstrably outweigh the benefits, which would be very modest commensurate with the provision of a single dwelling.

Conclusion

16. For the above reasons the appeal is dismissed.

S Tudhope

Inspector