
Appeal Decision

Site visit made on 10 June 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2020

Appeal Ref: APP/Z1510/D/20/3245211
89 Haygreen Road, Witham CM8 1GT

- 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 Daniel Westfallen against the decision of Braintree District Council.
 - The application Ref 19/01600/HH, dated 31 August 2019, was refused by notice dated 28 October 2019.
 - The development proposed is the 'erection of outbuilding (retrospective).'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description I have used above is with the agreement of the main parties. This is to best describe the development to which the appeal relates concisely and precisely and arose due to a lack of consistency between the descriptions shown in the appeal documents.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the area and the living conditions of existing occupiers with specific regard to the size of the resulting garden.

Reasons

Character and Appearance

4. The appeal site is the rear garden of No 89 Haygreen Road, which itself is part of a dense residential development formed by a series of winding narrow streets. The development concerns a detached, pitched roof outbuilding at the foot of the garden. Despite being in the rear garden, and owing to its size, the building is visible from the communal parking area adjacent No 89, neighbouring gardens and the car park to a convenience store accessed off Maltings Lane. The building is also visible from Maltings Lane itself.
5. The gardens afforded to the terrace of dwellings making up Nos 89 through 93 are short and narrow and somewhat disproportionate to the size of the dwellings. In this context, the scale, mass and height of the outbuilding is emphasised, appearing unduly dominant of the garden space, spanning as it does its entire width. Given the level of public visibility of the garden and the

building itself, this effect is exacerbated. I acknowledge and indeed could see as part of my site visit a number of outbuildings in the gardens of other dwellings, but these appeared more in scale and thus proportion to the space they occupy. I see from the evidence that the appellant intends to render the building which would reduce the quite harsh visual effect of the exposed blockwork but this would not accordingly reduce the effect of its scale, mass and height.

6. Put simply, the building appears too large for its context and for that reason, taking into account the above factors, it is harmful to the character and appearance of the area. This would be contrary to saved Policies RLP 17 and RLP 90 of the Local Plan¹ and section 12 of the Framework² which seek to ensure, amongst other things, that new development is of a high quality and contextually appropriate design and appearance that protects the existing street scene in character, identity and scale terms as well as a high standard of design and layout in all developments, large and small.

Living Conditions

7. The evidence on the precise nature of the alleged harm in respect of this main issue is light from the Council. Although in stating that the appeal scheme represents overdevelopment of the plot to the detriment of the amenity of occupiers of the host dwelling, I would take it that their concerns stem from the size of the resulting garden that the occupiers of No 89 benefit from.
8. As I have explained in my findings on the first main issue, the outbuilding is large for the size of the garden and would, as a result, cause harm to the character and appearance of the area. The size of the building has also had the effect of noticeably truncating the amount of usable garden space.
9. I have not been advised of any minimum expected size for gardens as it may be laid out by the development plan. As well as this, it strikes me that whilst small, the resulting garden still has a sitting out area and some space for children to play. That space is open and otherwise unencumbered. There is an open car parking area to one side of the garden and as such there is no specific feeling of being hemmed in by surrounding development.
10. With these factors in mind, the resulting size of the garden does not lead to an effect on the living conditions of occupiers such that it would, to my mind, be capable of sustaining an objection to the appeal scheme in planning terms. The development therefore complies, with regard to this main issue, with saved Policy RLP 90 of the Local Plan and paragraph 127 of the Framework which seek to ensure, amongst other things, that new development is designed to create places with a high standard of amenity for existing users and does not have an undue or unacceptable impact on the amenity of any nearby residential properties.

Other Matters

11. There will be areas in which the appeal scheme is acceptable such as, for example, how it does not adversely affect the living conditions of neighbouring occupiers or that its external appearance in terms of the use of materials would be acceptable. This would also mean that there would be some compliance

¹ Braintree District Local Plan Review 2005

² The National Planning Policy Framework 2019

with policies of the development plan. Be this is it may, these matters would each represent a lack of harm which, by definition, cannot be used to weigh against harm. They would accordingly be neutral in any balance and thus my conclusions are unchanged.

Conclusion

12. I have found that the appeal scheme does not harm the living conditions of occupiers, but this would not reduce the harm it causes to the character and appearance of the area. It is for that reason that the appeal is dismissed.

John Morrison

INSPECTOR