



Appeal Decision

Site visit made on 30 June 2020

by P Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2020

Appeal Ref: APP/Z1510/D/20/3244322 5, Beatty Gardens, Braintree CM7 9TA

- 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 Mrs Victoria Pilkington-Fox against the decision of Braintree District Council.
 - The application Ref 19/01844/HH, dated 3 October 2019, was refused by notice dated 4 December 2019.
 - The development proposed is described as the demolition of a 37sqm single storey side & rear extension and erection of a 43.57sqm ground floor side and rear extension and 31.96sqm first floor side and rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has made reference to policies in the emerging Braintree District Publication Draft Local Plan. While I am advised the examination is at an advanced stage, the plan is not yet adopted. I have not been provided with evidence of the extent to which there may be unresolved objections to emerging policies and those policies may still be subject to some change. I can therefore only attach limited weight to them at this time.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of adjoining occupiers having regard to overbearing.

Reasons

4. The appeal site is a one and a half storey semi-detached dwelling which has been extended to the side and rear with single storey flat roofed additions. The area is characterised by a mix of one and half and two storey semi-detached dwellings which contribute to create a regular rhythm to the properties in the area.
5. The appeal site (No.5 Beatty Gardens) is set back from the neighbouring property (No.3 Beatty Gardens) due to its position at a bend in the road. The proposed development would replace the existing side and rear extensions with a one and a half storey extension located along the side boundary along with a further element to the rear of the property. The proposed development would be built so as not to have any separation between the extension and the

property boundary. Due to the proposed development projecting the full height of the existing dwelling, it would erode the separation between the appeal site and neighbouring property. There is an approximately 2 metre high close boarded fence along the boundary which provides screening of the existing flat-roofed single storey extension. However, the proposed side extension would be significantly taller, and thereby visible. As such, the existing fence screening would not lessen the impact of the proposed development due to its height and position.

6. The scale and bulk of the flank wall of the proposed extension at the full height of the dwelling would be significant. Without any separation to the property boundary, the proposed development would project along almost the full length of the neighbouring property's rear garden. Furthermore, due to the positioning of the appeal site being set-back from No.3 Beatty Gardens, this would result in a bulky and over-dominant feature that would result in a significant sense of enclosure to the rear garden of the adjoining property. I consider that this enclosure and dominance of the side extension would harm the living conditions of adjoining occupiers.
7. The appellant has indicated the extension would not affect light or privacy of the neighbouring property. Due to the positioning of the appeal site to the north of the adjoining property and the lack of windows in the flank elevation, it would not adversely affect light to the rear garden or overlooking. However, notwithstanding these matters, I consider the proposed development would still have an over dominant and overbearing effect on the neighbouring property's rear garden. As such, these factors are not sufficient to outweigh the harm in this regard.
8. My attention has been drawn to examples of other dwellings, and dwellings with side and rear extensions along property boundaries in the area at Albermarle Gardens, St. Vincent Chase and Warley Close. I do not have full details of any of the permissions that approved these developments. Furthermore, the scheme at Albermarle Gardens is not directly comparable to the appeal site as it only partially adjoins the neighbouring property boundary. As such, these can only be afforded very limited weight and I consider that they are not sufficient to outweigh the harm I have identified in the main issue.
9. In light of the above, I consider that the proposed development would result in harm to the living conditions of adjoining occupiers having regard to overbearing. As such, it would be contrary to Policy RLP90 of the Braintree District Local Plan Review (2005) which states that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties. The proposal would also be contrary to emerging Policy LPP55 of the Publication Draft Braintree Local Plan (2017) which states there shall be no unacceptable impact on the amenity of any nearby properties including, amongst other things, on overbearing.
10. The proposed development would also fail to accord with paragraph 127 of the National Planning Policy Framework ('the Framework') which seeks to create places with a high standard of amenity for existing and future users.

Conclusion

11. For the reasons given above I conclude that the appeal should be dismissed.

P Mileham

INSPECTOR