



Appeal Decision

Site visit made on 21 January 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2021

Appeal Ref: APP/Z1510/W/20/3259303

33 Francis Way, Silver End, CM8 3QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Jordan Billinton and Mrs Adroulla Antoniou against Braintree District Council.
 - The application Ref 20/00509/HH, is dated 17 March 2020.
 - The development proposed is demolition of single storey conservatory and construction of part single storey part two storey rear extension with associated internal alterations.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of single storey conservatory and construction of part single storey part two storey rear extension with associated internal alterations at 33 Francis Way, Silver End, CM8 3QX, in accordance with the terms of the application, Ref 20/00509/HH, dated 17 March 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans reference 200103-00-P0, 200103-03-P0, 200103-05-P0, and 200103-05-P1.
 - 3) Notwithstanding condition 2 and the details shown on the approved plans, prior to any development above foundation level of the extension hereby approved, the precise details of the windows and other materials and finishes shall be submitted to the local planning authority and approved in writing and the development shall thereafter be carried out in accordance with the approved details.
 - 4) Notwithstanding condition 2 and the details shown on the approved plans 200103-03-P0, 200103-05-P1, the window at first floor level in the south elevation shall not be removed but shall be retained as existing.

Application for costs

2. An application for costs was made by Mr Jordan Billinton and Mrs Adroulla Antoniou against Braintree District Council. This application is the subject of a separate Decision.

Preliminary matters

3. The council has indicated that, had it been in a position to decide the appeal application, it would have refused it for the following reasons:
 - 1) The proposals would result in the removal of the existing rear extension to the property. Insufficient information has been provided to demonstrate that it is not of historical value and importance, and that its loss would therefore not have an impact on the designated heritage asset. The proposals are therefore contrary to the NPPF, Policy RLP95 of the Adopted Local Plan and Policy LPP56 of the Draft Local Plan.
 - 2) The proposed rear extension by virtue of its siting and fenestration would lead to an unacceptable loss of privacy to neighbouring properties in Manors Way, contrary to Policy RLP90 of the Adopted Local Plan and Policy LPP55 of the Draft Local Plan.
 - 3) The proposed infilling of the side elevation first floor window would detract from the symmetry of the row of houses to the detriment of the established pattern and character of development in the locality and would result in harm to the designated heritage asset of Silver End Conservation Area, contrary to the NPPF, Policy RLP95 of the Adopted Local Plan and Policy LPP56 of the Draft Local Plan.

Main Issues

4. Bearing in mind the refusal reasons that the council would have given had the appeal not been made, the following are the main issues for me to consider:
 - i) the significance of the existing rear extension in terms of its historical value and importance to the Silver End Conservation Area; ii) the effect on the Silver End Conservation Area of the infilling of the first floor window on the side elevation; and iii) the effect of the proposed rear extension on the living conditions of neighbours.

Reasons

5. The appeal site is within the Silver End Conservation Area, the significance of which is derived from its homogenous character and layout designed and built to the Garden Village principles. There is reference in the representations to the Silver End Conservation Guide (January 1999), but I have not been supplied with a copy by either party. My understanding from what is said in the representations is that the firm of Crittall, which makes metal window frames, was instrumental in the design and building of the Garden Village. The appeal dwelling is part of a small group of houses which have the same design and layout, reflecting the coherence of appearance that typifies the conservation area.
6. Policy RLP95 of the Adopted Local Plan and Policy LPP56 of the Draft Local Plan¹ state that built or other development will be permitted in a Conservation Area subject to preserving and enhancing the character, appearance and essential

¹ I am told that the Draft Local Plan remains in the examination stage, with the Inspector having issued his findings on Section 1 of the plan, which he cannot find sound as submitted. There are therefore unresolved objections, so that only limited weight can be given to the contents of the whole plan at present. I have therefore relied primarily of the adopted policies of the council.

features of the Conservation Area. These policies also state that materials should be authentic and complementary to the building's character.

The significance of the existing rear extension in terms of its historical value and importance to the Silver End Conservation Area

7. In respect of the first issue, the rear extension that is proposed to be demolished is rectangular in plan form, has a steel framework and flat felted roof. The possibility has been raised that this extension could be a surviving Crittall prototype, therefore the proposal could result in the potential loss of a rare prototype conservatory manufactured by the Crittall firm, which could be considered to contribute to the overall significance of the Silver End Conservation Area. The historic buildings consultant (Essex County Council) advised that *"Justification needs to be provided for the loss of the conservatory, the full provenance and significance of which has not been considered by the applicant. This should be considered against section 189 of the NPPF if the conservatory is a surviving example of a prototype Crittall design, this should be highlighted and retained as a contributing factor to the significance of the Conservation Area, marking how the company developed and adapted following the construction of Silver End"*.
8. This advice appears to be based on conjecture, but there is a comment provided in a representation by the neighbouring occupier at 31 Francis Way, which states that the conservatory was built by Crittall as a prototype and one-off design erected by Crittall for the then Crittall Manager who occupied the property; the conservatory has stood for 35-40 years and has been exceptionally maintained by all previous owners.
9. In response, the appellants have produced an 'historic' photograph of a conservatory that was in the area (but not at 33 Francis Way). This shows a metal frame conservatory, the vertical part of the framework being radiused through less than 90° to provide a sloping glazed roof.
10. The sloping glazed roof in the photograph certainly has more of the appearance of a conservatory than the existing extension at the appeal property. The vertical steel framework of the extension is somewhat similar in section to Crittall framework that I have seen, but the section is not as slender as I would expect. In addition, the proportions of the 'glazed' openings do not look right to me. Furthermore, the neighbour's report that the existing extension 'has stood for 35-40 years', if taken as an accurate timescale, means that it was built around about 1980. Even if it had been erected 20 or so years earlier, that would still limit the relevance of it to the evolution of the products of the company, in relation to the character and appearance of the conservation area.
11. I also note that the planning officer, in an email dated 2 September 2020 to the appellants, stated that, *"subject to the inclusion of the glass panels from the previous 'conservatory', the obscure glazing of the first floor window, and the retention of the side elevation window of the original property, we would be recommending the application for approval"*. This strongly suggests that the view had been reached that the existing extension is not worthy of retention as a whole. In view of my remarks above, I see no reason to disagree with this.

The effect on the Silver End Conservation Area of the infilling of the first floor window on the side elevation

12. The appeal property forms part of a small group of detached houses which mirror each other, with a side elevation window at first floor. The historic

buildings consultant advised the council that the proposed infilling would result in less than substantial harm to the designated heritage asset due to the impact on the unified appearance of properties along Francis Way, to the detriment of Silver End Conservation Area. The council therefore contends that the proposed infill of the side elevation window fails to comply with Local Plan Policy RLP95.

13. Whilst this side elevation window is a small feature, when passing this group of houses it is an attractive and unifying element in the composition. To a considerable extent, it is the uniformity of the individual blocks of houses in the conservation area, adopting a very modern and coherent design at the time of their development, that is of such importance to its designation. I therefore agree that the loss of this window, even allowing for the fact that it is proposed that the infilling brickwork would match the existing and would be inset, would amount to less than substantial harm to the designated heritage asset. In addition, the application plans for this proposal show that this window currently serves a bathroom, and that the room would remain in that use after the development. I have not been given a coherent argument that might suggest that there is an over-riding reason for allowing the window to be blocked up as proposed. However, I consider that I can deal with this by way of a condition on the planning permission since it is not an essential element of the proposed development, and doing so would not take away the benefit of the planning permission.

The effect of the proposed rear extension on the living conditions of neighbours

14. Policy RLP17 of the Adopted Local Plan and Policy LPP38 of the Draft Local Plan both require that extensions should result in no unacceptable adverse impact on the amenities of adjoining properties, including on privacy, overshadowing and loss of light. The council's concern is about unacceptable loss of privacy to neighbouring properties in Manors Way. This is explained in the officer's report as *"The proposed extension would extend 4.0 metres in depth from the rear wall of the host dwelling at first floor level. Due to the orientation of the property and the proposed depth of the extension, there would be an unacceptable impact on neighbouring amenity for No. 13 Manors Way. The neighbouring property would experience a loss of privacy and overlooking from the proposed window serving the proposed dressing room"*.
15. A drawing, produced by the appellants shows that the window proposed in the 2 storey part of the extension is 16.956m away from the nearest 2 storey part of No. 13 Manors Way. I also note that these 2 properties do not face each other back to back, but the rear elevation of No. 13 is set at about 45° from the line of boundary fence that separates the 2 dwellings. These factors lead me to conclude that this neighbouring property would not experience a loss of privacy or overlooking from the proposed dressing room window. I have also taken account of concerns expressed in consultation responses about the impact on privacy of No. 14 Manors Way and No. 31 Francis Way, but I cannot see that these are well founded.

Conclusions

16. In the light of the above reasoning, I conclude that there is no convincing evidence put to me that the existing rear extension is in fact a surviving Crittall prototype conservatory, the loss of which would be harmful to the character and appearance of the conservation area. On the other hand, I conclude that

the bricking up of the window on the side elevation of the appeal property would amount to less than substantial harm to the designated heritage asset. I consider that I can deal with this by way of condition. As to the effect of the appeal proposal on the living conditions of neighbours, I am satisfied that there would be no loss of privacy or overlooking, or any other detrimental effect on their enjoyment of their dwellings.

17. Thus I reach the overall conclusion that the proposal before me, subject to the condition that I deal with below, would preserve or enhance the character or appearance of the Silver End Conservation Area. Therefore I allow the appeal.

Conditions

18. The council has suggested a number of conditions that it would wish to see imposed on any planning permission for the appeal development, in addition to the standard time limit for commencement. I am imposing these, amending the wording where necessary to accord with good practice and national guidance, for the following reasons: condition 2 is for clarity and the avoidance of doubt and to ensure that the development will harmonise with the character and appearance of the conservation area. Condition 3 is necessary to ensure that the precise nature of the materials used in the development will match those of the existing dwelling. In addition, I have added a fourth condition, which is necessary to ensure the retention of the window in the side elevation, as I have outlined in paragraph 13 above.

Terrence Kemmann-Lane

INSPECTOR