
Appeal Decision

Site visit made on 10 March 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/Z1510/D/20/3262323

4 Godwit Court, Kelvedon CO5 9PU

- 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 Peter Ryder against the decision of Braintree District Council.
 - The application Ref 20/01311/HH, dated 11 August 2020, was refused by notice dated 14 October 2020.
 - The development proposed is Erect 12m long x 3m high timber acoustic fence at 4 Godwit Court. Adjacent to Boundary fence.
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Decision

1. The appeal is allowed and planning permission is granted to Erect 12m long x 3m high timber acoustic fence. Adjacent to Boundary fence at 4 Godwit Court, Kelvedon CO5 9PU in accordance with the terms of the application, Ref 20/01311/HH, dated 11 August 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 following approved plans: Location Plan; Block Plan; and Fencing Details.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the appeal site and the surrounding rear garden scene.

Reasons

3. The proposal is located within the Kelvedon development boundary and is therefore acceptable in principle in accordance with Policy RLP17.
4. Although the proposed fence would be approximately 1 metre higher than the existing boundary treatment, it would not extend for the entirety of No 4's rear garden boundary, which is untypically shared with 5 other dwellings. No 4's corner position within its street has resulted in an irregular shaped rear garden area, whereby parts of the common boundary are within close proximity to the host property, particularly its conservatory.
5. The proposed acoustic fence panels would sit in alignment with a 12-metre-long section of the existing rear boundary fence. In terms of visual impact, other than from within the host site, only the top section of the proposed fencing would be visible from outside of the site. These views would be limited

- to private views from the rear windows and garden areas of immediate neighbouring properties. The proposed development would be viewed in the context of other nearby features that are taller than the existing fence, including trees and other plants, which give a sense of intermittent enclosure to this part of the general rear garden scene. The proposed development would also be read in proximity to a backdrop of the rear elevation of the two storey host property. It would not therefore be overly prominent or result in an unacceptable loss of openness in this location.
6. I note that this part of the appeal site also includes an outside seating area which could be overlooked by users of a trampoline, which I saw positioned within a neighbouring garden close to the shared boundary. Trampolines are common features within private gardens and their use inevitably results in some loss, or perception of loss, of privacy to neighbouring occupiers. The effect of the use of this type of play equipment in this location on the living conditions of the occupiers of No 4, is likely to be more noticeable than would typically be the case between neighbouring properties, due to the particular close knit site circumstances, including the position of No 4's outside seating area and conservatory in relation to the shared boundary.
 7. The potential for overlooking and mutual disturbance is greater than would usually be the case in back to back housing layout arrangements. The proposed development would alleviate these concerns without causing harm to the living conditions of nearby occupiers. The alteration that would result in terms of the character and appearance of the rear garden scene would be very localised, and because of the overall scale, design and materials of the proposed development would not result in a harsh or overly prominent feature when considered in the context of its immediate surroundings.
 8. I conclude that the proposed development would not result in unacceptable harm to the character and appearance of the appeal site or surrounding rear garden scene. Thus, the proposal would be consistent with Policies RLP17 and RLP90 of the Braintree District Local Plan Review 2005 (LPR), Policy CS9 of the Braintree District Council Core Strategy 2011 and the requirements of the National Planning Policy Framework, which together and amongst other matters seek high quality design and the protection of the character of an area.
 9. Although unadopted policies cannot be afforded full weight, the proposal would also be consistent with the relevant sections of Policies LPP38, LPP50, LPP55 of the Braintree District Council Draft Local Plan 2017 (the emerging Local Plan) which require, amongst other matters, that development is compatible with the character of the area.
 10. Policies RLP56 and RLP60 appear to be part of the LPR rather than policies contained within the emerging Local Plan as referred to in the Council's decision notice. In any case, they are not relevant to this appeal as they relate to vehicle parking and Braintree branch line improvements.

Other Matters

11. Appeals are determined on their individual merits, having regard to the circumstances of each individual site. I therefore do not consider that allowing the appeal would risk setting a precedent.

12. I have carefully considered the reasons why the appellant has applied for planning permission for the proposed development. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Had I found the proposed development to be harmful to the character and appearance of the area, and so was minded to dismiss the appeal, I would have needed to consider this matter further. However, as I have found no such harm there is no need for me to do so in this case.

Conditions

13. In addition to the standard implementation condition, I have imposed a condition specifying the approved drawings as this provides certainty.
14. Whilst the Council suggested a condition requiring materials to match the existing building, I have not imposed a condition to this effect. This is because timber is proposed, as set out in the approved drawings, and I find this material to be acceptable.

Conclusion

15. The development accords with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the above reasons the appeal is allowed.

S Tudhope

Inspector