

Appeal Decision

Site visit made on 25 October 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Reference: APP/Z1510/W/22/3291744
26 Evans Way, Witham CM8 2FX

- 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 T Ambrose against the decision of Braintree District Council.
 - The application (reference 21/02511/FUL, dated 6 August 2021) was refused by notice dated 6 December 2021.
 - The development proposed is described in the application form as follows:
"retrospective full planning permission for the demolition of a brick wall, erection of a fence and change of use to C3 residential curtilage".
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of a brick wall, erection of a fence and change of use of land to C3 residential curtilage, at 26 Evans Way, Witham CM8 2FX, in accordance with the terms of the application (reference 21/02511/FUL, dated 6 August 2021), subject to the conditions set out in the attached Schedule of Conditions.

Procedural matters

2. Since "retrospective" (as stated in the application form) is not an act of development, I shall treat the application as one made under Section 73A of the Town and Country Planning Act 1990, for development that has already been carried out. This can be more clearly described as the demolition of a brick wall, erection of a fence and change of use of land to C3 residential curtilage.
3. The application which is the subject of this appeal was an "Application for Planning Permission", although the Council's notice of refusal refers to a "breach of condition A27 of application 15/00799/OUT which restricts boundary treatments within the wider development". In this case, the application includes both the change of use of land and variation to the boundary treatment and I have dealt with the application for planning permission as submitted.

Main issue

4. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the surroundings.

Reasons

5. The appeal site is located in a residential development in the north-eastern part of Witham that has only recently been carried out. The new housing area makes use of traditional forms and materials and it has been thoughtfully laid out, with meandering distributor roads and branching culs-de-sac. The development incorporates generous areas of open space which provide a practical amenity for residents, as well as softening the visual appearance of the locality
6. Evans Way is one of the main distributor roads through the residential area, and access to the houses is typically provided by side roads serving separate groups along the frontage. There are wide landscaped verges between the side roads and the through road.
7. Number 26 Evans Way is a detached two-storey house, of brickwork under a slate roof, that stands at the north-western end of one of the groups of houses in this part of Evans Way. It has a small back garden, laid to grass, that is enclosed by a brick wall and also enclosed by the two-storey, gabled, side wall of a house at the rear and by a garage wall.
8. The house at the appeal site is separated from the adjoining house by a pair of garages and it stands back from the road frontage behind the landscaped strip. Along its north-western side boundary, it is adjoined by a broad area of open space that provides a parkland feature through the development and which appears to be well used.
9. A narrow strip of land adjacent to the side of the house and the garden wall is in the same ownership as the house. A fence has been erected, with planting alongside it, defining the boundary more positively. Permission is now sought for the formal change of use of the strip of land and, in connection with that, for the erection of the fence and the demolition of the garden wall.
10. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history (while not preventing or discouraging appropriate innovation or change and achieving good standards of accommodation).
11. Local planning policies reflect these basic aims. They include Policies in the recently adopted 'Braintree District Shared Strategic Section 1 Local Plan (2021)' and the 'Braintree District Local Plan 2013-2033 (2022)', which include an aim to enhance the public realm.
12. The proposals would maintain a degree of separation between the side elevation of the house, adding a narrow garden strip which would also increase the width of the existing back garden. Thus, it would improve privacy in relation to side windows in the house and add to the garden area, which would significantly improve the garden at the rear of the house.
13. On the other hand, the scheme would encroach into the open space, reducing the open appearance of the area, albeit by only a marginal amount. It would

also change the appearance of this aspect of the housing development, by removing the existing garden boundary wall, which is of fair-faced brickwork, and substituting a close-boarded timber fence, on concrete posts, alongside the house and back garden (with a more modest fence alongside the front garden). The new fence is in a prominent position in the townscape but external screen planting has been carried out in front of the fence and I have no reason to suppose that it could not be maintained.

14. In itself, the loss of a small area of the parkland would not have a discernible effect on the character or appearance of the surroundings, due to the extensive area of the open space. Nonetheless, the close boarded fence would be less attractive than the existing brickwork of the garden wall. Even so, the fence will in time become effectively screened, in my view, by the planting that has already been carried out, using suitable plant types. The new hedge material can be expected to grow up in front of the fence, creating a softer edge to the parkland that would be in keeping with other parts of the area.
15. On balance, therefore, I have concluded that the scheme would not be unduly harmful to the character and appearance of the surroundings and that the benefits outweigh the objections, in this particular case. Hence, it would not be in conflict with the national legislation or the Development Plan as a whole and it is acceptable in planning terms. In short, I am persuaded that the scheme before me can properly be permitted and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
16. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal), subject to modifications necessary, in my opinion, in the interests of clarity and enforceability.
17. I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is maintained, by reference to the approved drawings (including the later drawing of the side boundary showing the new hedge as planted and intended). An additional condition is required to ensure that the planting scheme is suitably maintained and cared for while it is becoming permanently established; otherwise replanting will be necessary, of course. The normal commencement condition is not necessary in this case, however.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - unnumbered Ordnance Survey "Site Location Plan" (1:1250);
 - unnumbered Ordnance Survey "Site and Block Plan" (1:200);
 - drawing number BW149-Chu-02 ("Churchill 'A' Elevations");
 - unnumbered drawing: "Original Side Elevation";
 - unnumbered drawing: "Side Elevation excluding hedgerow immediately abutting proposed fencing";
 - unnumbered drawing: "Side Elevation including/excluding fencing behind hedge";
 - Unnumbered photograph of fence.
2. The materials and the landscaping to be used in the development hereby permitted shall be as shown on the approved plans (and as now executed) and no variation shall be made to either the fencing or the planting scheme without the express prior written approval of the local planning authority.
3. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives prior written consent to any variation.