



Appeal Decision

Site visit made on 18 October 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/Z1510/W/22/3295767

4 St. Mary's Road, Kelvedon CO5 9DN

- 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 Andrew Beales against the decision of Braintree District Council.
 - The application Ref 21/00941/FUL, dated 23 March 2021, was refused by notice dated 8 February 2022.
 - The development proposed is Erection of new, additional, detached house in grounds of existing property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council's decision was issued, Section 2 of the Braintree District Local Plan 2013-2033 (BLP) was adopted on 25 July 2022 and has replaced the Braintree District Local Plan Review 2005, and the Braintree District Publication Draft Local Plan 2017, which were cited in the Council's reason for refusal. The Kelvedon Neighbourhood Plan (KNP) was made on 25 July 2022 and now also forms part of the development plan. The parties have been given the opportunity to comment on this.
3. The appeal was accompanied by Block Plan drawing number 02 P Rev C but the Council's decision refers to Rev B. Although the appellant has shown that Rev C was sent to the Council, the Council have confirmed that Rev C was not considered as part of the application. Revision C has a different layout in that it shows the garden in a different location, a wider vehicular access taken from a different part of the road and an amended parking layout. I consider there would be prejudice to parties were I to consider the appeal on the basis of this plan due to these differences. Accordingly I have considered this appeal on the basis of the plan that the Council considered when determining the application, namely Block Plan drawing number 02 P Rev B. I have also considered the proposed elevations as they would relate to the layout shown on the block plan notwithstanding the annotations on those elevations.

Main Issues

4. The main issues are:
 - the effect on the character and appearance of the surrounding area;
 - The effect of the development on the living conditions of the occupiers of 4 St Mary's Road with regard to privacy; and

- Whether the development would provide appropriate living conditions for future occupiers.

Reasons

Character and appearance

5. The appeal site is part of the garden of a corner plot on St Mary's Road. There is some variation in the appearance of the dwellings in the surrounding area, however the predominant dwelling type in proximity to the appeal site is red brick, hipped roof dwellings with the windows providing a distinctive horizontal emphasis. The surrounding dwellings are set back from the pavement. There are two junctions where the main street leads off to cul-de-sacs in close proximity and the site sits on one of these junctions. The footpaths at these junctions are wide and curved. The dwelling plots on three of those corners are generous, and the other has an area of grassed amenity space. This gives the area an attractive spacious quality.
6. The proposed dwelling would appear particularly prominent in the street scene due to its position close to the corner and the spacious character around the staggered junction and in views along the cul-de-sac, where the dwellings progressively step back from the edge of the footpath which maintains the open character of the area.
7. The proposed dwelling would have a pyramid hipped roof, which is not characteristic of the surrounding area. Also, while there was a mixture of single and two storey dwellings in the surrounding area, there was a distinctive, regular pattern to the glazing which would not be reflected in this dwelling. One side and the rear elevation would have an unbalanced appearance due to the positioning of the windows generally to one side of the dwelling and the narrow bathroom window. The porch feature is also not characteristic of the dwellings in proximity to the appeal site.
8. As a result of its siting and appearance, the dwelling would appear as an incongruous feature in the street which would not be well related to the existing pattern of development, nor to the appearance of the surrounding area.
9. In relation to this main matter, the proposed development would have an unacceptable effect on the character and appearance of the surrounding area contrary to BLP Policy LPP 52 which requires development to be in harmony with the character and appearance of the surrounding area and KNP Policies DE1 and DE3 which require development to make a positive contribution to local character and the street scene.

Living Conditions of existing occupiers

10. The first floor window shown in the rear elevation of the proposed dwelling would be in close proximity to the boundary with the rear garden of 4 St Mary's Road and would look directly into the rear garden. This would introduce a new relationship of overlooking to the garden directly from the side where none exists at present. While I acknowledge there is a level of overlooking to be expected in residential areas, the increase in overlooking and consequent loss of privacy that would arise due to the orientation and proximity of the proposed dwelling to the boundary would be beyond that which would be reasonably considered to be acceptable.

11. In relation to this main matter, I conclude that the proposed development would have an unacceptable effect on the living conditions of occupiers of No 4 due to the loss of privacy contrary to BLP Policy LPP 52 which requires development to have no unacceptable impact on the amenity of any nearby property including with regard to privacy and KNP Policy DE1 which requires development to safeguard the privacy of adjoining residents.

Living conditions of future occupiers

12. The internal living space on the ground floor would have a poor outlook due to the proximity of the window to the rear boundary treatment shown to be a 1.8m fence on the plans. This would restrict the levels of light to the interior, which would be exacerbated by its north west facing orientation. This would not provide acceptable living conditions for future occupiers of the property.
13. The amenity space for the dwelling would be sited adjacent to St Marys Road. It is not uncommon for there to be dwellings in suburban locations with gardens immediately adjacent to the footpath or highway. The existing garden has a reasonable degree of privacy despite being sited next to the highway due to the hedge, and it appears that other surrounding occupiers with gardens adjacent to the highway have taken a similar approach. I therefore consider that the siting of the garden space would not be unacceptably detrimental to the living conditions of occupiers. However, this would not outweigh the harm to outlook I have found above.
14. In relation to this main matter, I conclude that the proposed development would not provide acceptable living conditions for future occupiers due to the lack of outlook to the living area. This would be contrary to BLP Policy LPP 52 which requires development to provide a high standard of accommodation and amenity for all prospective occupants.

Other Matters

15. The Council's report advises that the site is within the zone of influence for one or more habitats sites. There is a mitigation strategy in place to address the likely significant effects of development on these sites which seeks a financial contribution to fund off-site mitigation measures. However, given my findings on the main issues lead to the dismissal of this appeal, it is not necessary for me to consider these matters further. Even if they were found to be acceptable, they would be neutral factors and so would not alter the outcome of the appeal.

Planning Balance

16. The Council has confirmed that it cannot demonstrate a five year supply of deliverable housing sites and states the current position is 4.86 years which is a minimal shortfall. They intimate this will be short-lived as delivery is increasing from strategic sites. Nonetheless, paragraph 11d of the Framework is therefore engaged. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As the KNP does not include policies and allocations to meet its identified housing requirement, paragraph 14 of the Framework does not apply.
17. BLP Policy LPP52 and KNP Policies DE1 and DE3 seek to ensure high quality design and protect the living conditions of existing and future residents and as

such are consistent with the Framework which says developments should be sympathetic to local character and provide a high standard of amenity for future users. The proposal would be harmful to the character and appearance of the surrounding area and to the living conditions of existing and future residents for the reasons given above and I consider this harm would be significant.

18. While the proposal would contribute to the supply of housing, boosting the supply of housing as supported by the Framework, this contribution would be very limited as it is for a single dwelling.
19. I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

20. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the Framework, which indicate that a decision should be taken other than in accordance with the development plan.
21. Therefore for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR