
Appeal Decisions

Site visit made on 2 April 2024

by J Burston BSc (Hons) MA MRTPI AIPROW

an Inspector appointed by the Secretary of State

Decision date: 19th April 2024

Appeal A Ref: APP/Z1510/W/23/3323180

85A High Street, Earls Colne, Essex CO6 2QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Ms J Fenn against Braintree District Council.
- The application Ref is 22/02965/HH.
- The development proposed is a two storey side extension.

Appeal B Ref: APP/Z1510/Y/23/3323181

85A High Street, Earls Colne, Essex CO6 2QX

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Ms J Fenn against Braintree District Council.
 - The application Ref is 22/02966/LBC.
 - The works proposed are a two storey side extension.
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Decision Appeal A

1. The appeal is dismissed.

Decision Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The appeals are against the Council's non-determination of these cases within the statutory period. Whilst decision notices were not issued, the Council has set out what it considers to be the main issues relevant to the determination of the appeals in its statement of case.
4. These appeal decisions address both planning and listed building consent appeals for the same site and the same scheme. The remit of both regimes is different, and the main issues identified below relate to either the planning appeal (Appeal A) or the listed building appeal (Appeal B) or both. To reduce repetition and the avoidance of doubt I have dealt with both appeals together within this single decision letter.
5. A revised version of the National Planning Policy Framework (the 'Framework') was published after the appeal was submitted. The sections of this document most

relevant to this appeal have not been altered. As such, it has not been necessary to seek further comments from the parties.

Main Issues

6. The main issues in both appeals are:

- The effect of the proposed development and works on the special architectural and historic interest of 85a High Street, as a curtilage building of the Grade II Listed 83 & 85 High Street, and the setting of the Listed group; and
- whether the character or appearance of the Earls Colne Conservation Area would be preserved or enhanced.

7. In Appeal A only there is the further main issue of:

- The effect of the proposed development on the living conditions of the existing, any future and adjacent occupiers.

Reasons

Listed Building

8. The appeal building is a converted stable block historically associated with 83-85 High Street; a Grade II listed 15th century building (now in residential use), located off High Street. It is common ground that the appeal building falls within the curtilage of Nos 83-85 and therefore carries the same statutory protection.
9. Much of the significance and special interest of Nos 83-85 is derived from its historic integrity, contributed in part by its architectural form and historic fabric. The former stable block is constructed of brick with a slate roof. The building is located towards the end of the long driveway. The special interest and significance of the stable block comes, in large part, from the continued legibility of a historic functional, albeit subordinate, relationship with Nos 83-85, as well as from the surviving historic form and fabric and the building's primary courtyard elevation, which collectively denote the building's original use and construction.
10. The stable block has been subject to residential conversion, involving, amongst other things, the insertion of domestic windows and doors. The conversion has also involved the erection of single storey flat roof side extension. However, these changes still allow the former use and significance of the building to be appreciated.
11. The proposed two-storey side extension would include a differing roof pitch that would fail to harmonise with the historic stable. The size and placement of window openings would not respect the proportions or placement of those on the host building and the use of cladding would further set the extension apart from the rest of the building. Although lower in height than the historic part of the building, it would nevertheless be deeper in width and would be a jarring and bulky addition that would visually dominate the scale and form of it. In summary, the extension would be a disproportionate addition relative to the host property, failing to respect its proportions and detract from its fenestration.

12. The appellant states that the removal of the flat roof extension would greatly enhance the aesthetic quality of the building. Whilst I do not disagree, at present this single storey extension does not form a dominating or distracting addition, the two-storey addition would fundamentally alter this dynamic and does not provide justification for the harm that would be caused.
13. This would in turn harm the significance of the principal asset (Nos 83-85) by eroding the former stable's utilitarian appearance and reducing the understanding of it as a subordinate building. Thus, interfering with experiencing the listed building within its grounds. Accordingly, the significance of the listed building would be harmed.
14. Having regard to the scale and nature of the proposed works, the harm to the significance of the listed building would be less than substantial in the terms of the Framework. Paragraph 208 of the Framework sets out that this harm should be weighed against the public benefits of the scheme including, where appropriate, securing the asset's optimum viable use.
15. I do not doubt that the scheme would provide quality of life benefits, although those benefits would accrue principally to the occupier, rather than equate to wider public benefits. Additionally, there would be some small economic benefits associated with the construction process. However, even less than substantial harm to the significance of a designated heritage asset must carry great weight. As such, the sum of the public benefits is insufficient to outweigh the harm that would be caused to the significance of the listed building.
16. Overall, the effect of the proposed development on the area would be harmful and adversely affect the significance of the listed building contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and the historic environment protection policies within the Framework. Furthermore, I find that the proposed development would also be contrary to Policies LPP36, SP7, LPP52 and LPP57 of the Braintree Local Plan. In combination, these policies reflect those in the Framework which require that new development be of high-quality design that take into account local character while maintaining, protecting and enhancing Braintree's built and historic environment.

Conservation Area

17. The appeal site is also located within the Earls Colne Conservation Area (the CA). I have not been referred to a conservation area appraisal detailing the significance of the CA, however, I nevertheless observed that the CA is focussed on the High Street, which is an historic thoroughfare flanked by a rich mix of period buildings. The area to the rear of the properties that face the High Street is more functional, historically being private gardens or secondary spaces away from the public domain. They currently encompass car parks and various rear ranges and outbuildings of differing quality. Therefore, in so far as is relevant to the proposal, the CA derives some of its significance from the hierarchy of spaces as well as the quality of the period architecture.
18. The proposal would not be visible from the High Street and it would be lower than the main part of Nos 83-85. By reason of the separation distance, and lack of intervisibility between the proposed extension and the CA, I find no harm to the significance or setting of the CA.

19. Accordingly, the works would preserve and enhance the character and appearance of the CA is set out in the Act and the historic environment protection policies within the Framework. I find that the proposed development would accord with Policy LPP53 of the Braintree Local Plan. This policy reflects those in the Framework which require that new development be of high-quality design that take into account local character, while protecting and enhancing Braintree's built and historic environment.

Appeal A - Living conditions

20. At present No 85a is served by a courtyard garden which reflects the character of the area and is commensurate with the size of the property. The Essex design guide recommends minimum garden sizes of 100m² for a three or more bedroom dwelling. This approach is broadly consistent with the requirements of the Framework which seeks to ensure the provision of appropriate levels of amenity for existing and future users and to resist the inappropriate development of residential gardens where such development would cause harm to the local area.
21. The appellant states that the remaining garden area of No 85a, which is approximately 42m², is already below the standard set out in the Design Guide and in any event would be of a suitable size to serve the extended dwelling. The proposal would see the loss of what appears to be over 10m² of the existing private garden area. Undoubtably, this is loss of amenity space that would fall significantly short of the garden sizes set out in the Design Guide. However, in this tight knit urban environment garden sizes are less than generous and therefore the remaining garden area would be of a size reasonably expected by any future occupants of the property.
22. Consequently, I am of the view that the size of the amenity space for the existing and any future occupiers of the dwelling would be adequate and what could reasonably be expected in this discrete local area.
23. Turning now to the matter of privacy, the Council are concerned that the introduction of rear facing rooflights would lead to actual or perceived overlooking towards the dwelling at 6 Tapestry Court. Given the height and reasonably close spacing of dwellings in this area extensive mutual overlooking of adjoining garden spaces currently occurs. Mutual overlooking between the appeal dwelling and No 6 would involve first floor Velux type bedroom windows. The window sill height would be approximately 1.7metres and so not easy to look through from inside the property. Moreover, given the normal pattern of bedroom use, the likely frequency with which overlooking actually occurred would be low. Though perceived overlooking might nonetheless arise, as noted above, this is already an established feature of garden spaces hereabouts. For these reasons, there would not be an unacceptable loss of privacy for occupants of No 6.
24. Taking all relevant matters into account, I am satisfied that the development would not result in unacceptable harm to the living conditions of existing or future occupiers of the appeal property. Neither would it result in unacceptable harm to the living conditions of neighbouring residents. As such, there would be no conflict with LP Policy LPP36 which seeks, amongst other things, to ensure there would be no unacceptable impact on the living conditions of occupiers and their neighbours.

Conclusion

25. For the reasons given above, and considering all other matters raised, the appeals should be dismissed.

J Burston

INSPECTOR