



Appeal Decision

Site visit made on 15 October 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/Z1510/W/24/3339515

The Privets, 33 Francis Way, Silver End, Essex CM8 3QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Jordon & Androulla Billinton & Georgiou against the decision of Braintree District Council.
 - The application Ref is 23/02267/VAR.
 - The application sought planning permission for is erection of new outbuilding with 3No rooflights without complying with a condition attached to planning permission Ref 22/03377/HH, dated 28th April 2023.
 - The condition in dispute is No 2 which states:
APPROVED PLAN(S): Plan Description Plan Ref Plan Version Existing and Proposed Plans
200103-04-P6 N/A Location Plan 200103-00-PO.
The development hereby permitted shall be carried out in accordance with the approved plans listed above.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 29 October 2024.

Decision

1. The appeal is allowed and planning permission is granted for erection of new outbuilding with 3No rooflights at The Privets, 33 Francis Way, Silver End, Essex CM8 3QX in accordance with the terms of the application, Ref 23/02267/VAR, without compliance with condition no. 2 previously imposed on planning permission Ref:22/03377/HH dated 28 April 2023, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The address in my banner heading above is taken from the original application form.
3. The application seeks a revised design to the approved outbuilding. This type of application is possible as a condition was imposed on the original permission specifying the approved plans.
4. The appeal site lies within the Silver End Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

5. The appeal site is covered by an Article 4 Direction, which has the effect of requiring planning permission to be obtained for a range of alterations which would otherwise be covered by "permitted development" rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). I understand that this designation follows concerns regarding the dilution of original features across the CA.
6. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended.
7. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a Written Ministerial Statement. While these proposed changes can only be given limited weight at this stage, those parts most relevant to the appeal are not proposed to be amended. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issue

8. The main issue is whether the development preserves or enhances the character and appearance of the Silver End Conservation Area (CA).

Reasons

9. The Privets, No 33, is a substantial two-storey detached dwelling, faced in brick, with a hipped roof. Like its adjacent dwellings the appeal property is set back from the road behind a front garden, set behind a low front boundary treatment, contributing to the verdant character of the streetscene. At the rear, tall, mature vegetation is present along the boundary which limits views of the appeal building from the west, wherein lies more recent housing development. The appeal building would be located proximate to the shared boundary to the south which includes a high brick wall.
10. The CA covers a large area, a principally residential neighbourhood, that encapsulates the appeal site. The significance of the CA lies in its built form and layout, based on model village principles in the early twentieth century to house workers for the Crittal factory. The appeal site is of traditional form and is viewed in the context of neighbouring properties to the north of the appeal site, reflecting the coherence of the appearance of properties that typifies this part of the CA, thus making a positive contribution to the CA.
11. The proposal seeks to amend the roof profile from a gable roof to a hipped roof arrangement. All other elements of the garage would remain as previously approved.
12. In the locality garages are generally positioned in-between properties, set back from the road. Whilst I observed uniformity in the character and appearance of dwellings within the CA, ancillary buildings, including garages, did not have a homogeneous appearance, with a variety of roof profiles observed, including a hipped arrangement.

13. Being located significantly back from the road frontage, and behind the front elevation of the host property, the appeal building would not be highly prominent within the streetscene. In terms of the wider CA impact, given the limited space between the garage and adjacent built form, the view of the roof would be restricted. Consequently, the visual impact of the proposed amendment to the roof form in the wider streetscene would be limited.
14. The host property has a hipped roof and given the immediate environs of the appeal property, the proposed development would not appear as an incongruous feature. Consequently, the proposed amendment to the roof design would not be an overly dominant feature of unsympathetic design such as the CA Guide seeks to discourage and would not cause harm to the character and appearance of either the host dwelling or the wider CA in this regard. For these reasons, I find that the proposal would not harm the character or appearance of the CA and accordingly, the significance of the heritage asset would be preserved.
15. I have considered comments regarding the proposal's compliance with adopted guidance and the concerns regarding unsympathetic alterations resulting in the loss of the unified planned appearance of the estate. However, whilst the Silver End Conservation Guide¹ (the Guide) refers to pitched roof garages this guidance refers to properties along Board Tye Road, with no specific roof type referred to for properties on Francis Way. The Guide goes on to state that a number of other designs may be perfectly acceptable. Moreover, for the reasons given above, I consider that the proposed development would avoid harmful effects to the character and appearance of the appeal site's wider surroundings. In these respects, the proposed development would meet the design objectives given in the Guide and any minor infringements of aspects of that document would not weigh heavily against approval of the scheme.
16. Consequently, I conclude that the proposal would preserve the character and appearance of the Silver End CA. It would therefore be in accordance with Policy LPP53 of the Braintree District Local Plan 2013-2033 and the provisions of the Framework in so far as they collectively seek to ensure that development preserves the setting of heritage assets.

Other Matters

17. My attention has been drawn to negotiations during the determination of the original planning application and the agreement to amend the roof design. Be that as it may, I have determined the appeal scheme based on the current plans and the evidence before me.

Conditions

18. I have had regard to the planning conditions suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance.
19. For the purposes of certainty and in the interests of proper planning, I have imposed planning conditions requiring the development to be carried out within a set timescale and to the approved plans. I have imposed a condition relating to external materials to safeguard the character and appearance of the building and the area.

¹ Braintree District Council Supplementary Planning Guidance January 1999

Conclusion

20. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

R. Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 200103-00-P0, 200103-20-P0, and 200103-21-P1.
3. No above ground construction shall commence until a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

*****End of Schedule*****