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## Appeal Decision

Site visit made on 5 December 2024

**by K Lancaster BA (hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> January 2025**

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**Appeal Ref: APP/Z1510/W/24/3342131**

**Land Adjacent To 32 Easterford Road, Kelvedon, Essex CO5 9DX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr S Kamalanathan against the decision of Braintree District Council.
  - The application Ref is 23/02347/FUL.
  - The development proposed is a new 4 bedroom house.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. In the interests of natural justice, and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework, and this has informed my determination of the appeal.

### Main Issues

3. The main issues are the effect of the proposed development on:
  - the character and appearance of the area;
  - the living conditions of the occupiers of No. 32 Easterford Road, with particular regard to the private amenity space provision; and
  - highway safety, with particular regard to parking provision.

### Reasons

#### *Character and Appearance*

4. The appeal site comprises an area of land, which previously formed part of the garden to No.32 Easterford Road (No.32). It is currently separated from the garden of No.32 and enclosed by fence. There is a public right of way<sup>1</sup> between the appeal site and No.87 Riverside Way (No.87).
5. The properties typically found on Easterford Road are characterised as two-storey, semi-detached properties of a fairly simple and consistent design. The properties found on Riverside Way are newer, typically detached and exhibit a

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<sup>1</sup> Footpath 14 Kelvedon

more mixed pattern of development. The appeal site lies within the village of Kelvedon and is situated in an area which is predominantly residential in character.

6. Policy LPP35 of the Braintree District Local Plan 2013-2033 (the LP) states that development should create sustainable, inclusive and mixed communities through providing a mix of house types and size and an appropriate density for the area, which reflects local need. The policy also requires that development ensures that the density and massing of residential developments should relate to the character of the site and its immediate surroundings.
7. Policy DE1 of the Kelvedon Neighbourhood Plan (the NP) states that new development should ensure that the scale, height and massing fits unobtrusively with the existing building, (or in the case of new dwellings, the curtilage) and the local character of the street scene. It further states that the development should make a positive contribution to local character and scale of the area, and the spacing between buildings respects the character of the street scene.
8. The proposal would involve the construction of a detached, two-storey dwelling, four-bedroom dwelling. It would be constructed of brick to the ground floor, with the upper floor finished in render, and set under a hipped roof. The proposed dwelling would also incorporate solar panels.
9. Although I acknowledge that architectural variety exists within the local area, the proposed dwelling as a result of its design, siting and layout, would fail to relate positively to the character and appearance of the area and as a result would appear as an incongruous addition. Furthermore, the proposed roof design, by virtue of its pitch and overall height would be at odds with the established character and would appear taller than neighbouring development.
10. It would be set back within the plot, to allow for the provision of two off-street parking spaces. Although the provision of off-street parking in front of dwellings is not an uncommon arrangement within the wider area, the provision of two parking spaces, would dominate the front of this narrow site frontage, leaving very little space for soft landscaping. The proposed dwelling would also be situated behind No.32, approximately level with the wall of the rear elevation of the main part of the dwelling. This would result in an awkward relationship between the existing and proposed dwellings, which would fail to reflect the character and appearance of the immediate surrounding area.
11. Consequently, I find that the proposed development would cause unacceptable harm to the character and appearance of the area. Thus, it would fail to comply with Policies LPP35 and LPP52 of the LP and Policy DE1 of the NP, which require, amongst other things, development to reflect the character of the site and its surroundings, through scale, density, height and massing.

### *Living Conditions*

12. Policy LPP52 of the LP states that all new development shall not cause unacceptable impacts on the amenities of nearby residential properties including on privacy, overshadowing, loss of light and overbearing impact. The

Essex Design Guide (the EDG) states that requires a minimum garden size of 100m<sup>2</sup>, and that the garden should be private and usable.

13. The submitted plans show that retained garden for No.32 would be approximately 112m<sup>2</sup>. However, the retained garden area includes an area of garden to the front of the property which would neither be private or usable due to the location of the bin storage.
14. The retained rear garden would also be located in close proximity to the two-storey, side wall of the proposed dwelling cause overshadowing of the garden area. It would also be enclosed by a 2m high fence. For these reasons, I find that in the absence of any evidence to the contrary that the proposed development would be likely to lead to an unacceptable reduction in both the size and quality of the private amenity space, contrary to the guidance contained within the EDG.
15. For these reasons, on balance, I find that the proposed development would cause harm to the living conditions of the occupiers of No.32. Thus, the proposed development would conflict with Policy LPP52 of the LP which requires, amongst other things, that development shall not cause unacceptable impacts on the amenities of nearby residential properties.

#### *Highway Safety*

16. Policy LPP43 of the LP states that all development will be required to provide sufficient vehicle parking spaces in accordance with Essex County Council's Vehicle Parking Standards (the parking standards). These standards require two parking spaces to be provided measuring 2.9 metres by 5.5 metres.
17. The submitted plans show that two parking spaces would be provided for the proposed dwelling, with a new dropped kerb provided to enable access to these spaces. It is not disputed that the proposed development would provide sufficient parking for the new dwelling, and as a result would not cause harm to highway safety.
18. In respect of No.32, based on the evidence before me and my own observations during my site visit, No.32 currently has no off-street parking provision. During my site visit I observed that most of the properties on Easterford Road and Riverside Way have off-street parking and there are no on-street parking restrictions. Although I accept that the proposed development would not provide parking for No.32, and that the location of the access would prevent parking within the turning head that is located directly to the front of No.32, I find that no compelling evidence has been provided to demonstrate that this would lead to unacceptable harm to highway safety.
19. On this basis, whilst I accept that no off-street parking would be provided for No.32, the proposal would not lead to the loss of any off-street parking provision for this property. Therefore, I find that the proposed development would not cause unacceptable harm to highway safety. Thus, the proposed development would comply with Policy LPP43 which requires, amongst other things, provide sufficient vehicle parking spaces in accordance with the parking standards.

## **Planning Balance**

20. At the appeal stage, the Council has provided evidence which indicates that it can now demonstrate a five-year supply of housing sites. This is not disputed by the appellant. Nevertheless, even if the Council could not demonstrate such a supply, the provision of an additional dwelling within walking distance of Kelvedon High Street and therefore is considered to be a sustainable location, where there is access to shops, services and employment, would represent no more than a modest benefit.
21. Nonetheless, these benefits would be limited to those associated with a single dwelling and would not be so compelling as to outweigh the harmful effects of the development that I have identified. Consequently, I find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

## **Other Matters**

22. The appeal site is within the Zone of Influence of the Blackwater Estuary SPA/Ramsar Site. As a result, the proposed development is likely to have an effect on the designated area as a result of increased recreational pressure. The Council advise that a financial contribution is required to mitigate the impact of the proposed development and have confirmed that the financial payment has been made under Section 111 of the Local Government Act 1972.
23. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects on the integrity of the SAC including through the undertaking of an Appropriate Assessment. However, even if that were the case, it would at most be a neutral factor. As I am dismissing the appeal for other reasons, I do not need to consider this matter further as it could not lead me to a different conclusion.

## **Conclusion**

24. Whilst I have found that the proposed would not be detrimental to highway safety, I have found that there would be unacceptable harm to the character and appearance of the area and to the living conditions of the occupiers of No.32 and this leads to conflict with the development plan taken as whole. There are no material considerations of sufficient weight which indicate that a decision should be taken otherwise in accordance with the development plan. Therefore, the appeal should be dismissed.

*K Lancaster*

INSPECTOR