



Appeal Decision

Site visit made on 17 December 2024

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/Z1510/W/24/3345923

3 Foley Paddocks, High Garrett, Braintree, CM7 5NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr S Kenny against the decision of Braintree District Council.
 - The application Ref 24/00180/VAR, dated 26 January 2024, was refused by notice dated 4 April 2024.
 - The application sought planning permission for the erection of detached dwelling and garage without complying with a condition attached to planning permission Ref 21/02189/VAR, dated 20 September 2021.
 - The condition in dispute is No 2 which states that: the development hereby permitted shall be carried out in accordance with the approved plans.
 - The reason given for the condition is: for the avoidance of doubt and in the interests of proper planning.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. This appeal seeks to vary Condition No 2 (approved plans) attached to a Section 73 Variation permission (ref 21/02189/VAR) which itself was a variation of Condition No 2 (approved plans) of planning permission ref 19/00851/FUL which was allowed on appeal (ref APP/Z1510/W/19/3424033).
3. The sought variation of Condition No 2 relates to the retention of a balcony to the rear elevation, the provision of a 1.8 m screen to the existing balcony, and the installation of an obscure glazed fixed light window to the north-eastern flank wall serving the first-floor bedroom. Accordingly, I have considered this appeal on a part-retrospective basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of 3 Foley Paddocks and the surrounding area; and
 - the effect of the proposal on the living conditions of neighbouring occupiers with regard to a loss of privacy.

Reasons

Character and appearance

5. The appeal dwelling has a contemporary appearance with barn-like features. It features gables with low roof eaves and is finished with black timber boarding and bricks. The rear central gabled element features a substantial extent of glazing. The balcony is attached to the north-eastern rear gable and spans across the full width of the first-floor French doors and windows. It projects out by approximately a metre and features glazed balustrades.
6. The appellant states that the balcony is unintrusive and functional. However, due to its width and rear projection, it is considerably large. Its box-like structure appears bulky, and the balustrades add more glazing to a rear elevation that already features a large amount of glazing. Whereas the existing fenestration is subtly enclosed with timber framing and harmonises with the style and forms of the house, the glazing attached to the balcony appears more conspicuous and out of place because of the rear projection of the balcony. The additional glazing has created a rear elevation that appears overly dominated by glazing and has therefore unbalanced the fine-tuned appearance of the dwelling.
7. Although the appellant highlights the transparent nature of the balcony, it is still noticeable since the glazed balustrades reflect light. Furthermore, the balcony is prominent when viewed from the north-east given it projects out from the rear elevation. The addition of the sizeable 1.8 metre screen would further increase its prominence.
8. The balcony appears as an incongruous addition to the property, and as an awkward focal point that detracts from the overall pleasant architectural form and character of the house. The proposed obscure glazed side screen would be large and unsympathetic in appearance and would worsen the appearance and impact of the balcony.
9. Given this, the retention of the balcony with or without the proposed installation of the screen would harm the character and appearance of the appeal dwelling and surrounding area. The proposal would conflict with Policies LPP36 and LPP52 of the Braintree District Local Plan 2013-2033 insofar as they seek to ensure that residential alterations are well-designed and compatible with the original dwelling and character of the area.

Living Conditions

10. The existing balcony lies close to the common boundary with the neighbouring gardens to the north-east. The neighbouring gardens comprise an open lawned orchard-like area with benches and table as well as gravelled areas, greenhouses and a large outbuilding.
11. The proposed 1.8 m obscure glazed screen would preclude views of the lawned area to the north-east, directly adjacent to the appeal dwelling. The other areas of the adjacent land containing the greenhouses and outbuilding do not appear to be primarily used for recreational purposes and sitting out. Rather, they are spaces used for gardening, storage and parking. Whilst the balcony allows views of the greenhouses and the outbuilding, these are at an oblique angle. In light of this and the considerable separation distance between the balcony and neighbouring

greenhouses, it is considered that the retention of the balcony would not have an unacceptable impact on the privacy of the adjoining occupiers, subject to a condition requiring the installation and retention of the obscure glazed screen.

12. It is acknowledged that the impact of a walk-out balcony differs from a first-floor window. However, the use of the balcony, involving activity at an elevated level, is likely to be limited in scale and perceived as innocuous. The retention of the balcony would not unreasonably erode the privacy of the neighbouring occupiers who would still be able to enjoy a vast garden area.
13. Given the above, the retention of the balcony with the proposed obscure glazed side screen would not harm the living conditions of the neighbouring occupiers with regards to privacy. The proposal would therefore not conflict with Policies LPP36 and LPP52 of the Braintree District Local Plan 2013-2033 insofar as they seek to ensure that proposals do not have unacceptable impacts on the amenity of nearby properties.
14. It is claimed that the proposal offers an opportunity to improve the privacy of neighbouring occupiers, as there is existing overlooking from the rear facing first floor window served by the balcony. In the absence of an obscure glazed screen, views from the rear facing bedroom window into neighbouring properties are very restricted. This is because of the angle of those views and the positions that people would have to sit/stand to see out of that window and into those properties. With this in mind, the existing rear facing first floor window does not have an unacceptable effect on the living conditions of neighbouring occupiers and the proposed obscure glazed screen would not bring about benefits weighing in favour of the proposal.

Conclusion

15. The proposal conflicts with the development plan as a whole. There are no material considerations which indicate that the appeal should be decided other than in accordance with the development plan.
16. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR