
Appeal Decision

Site visit made on 6 December 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 December 2016

Appeal Ref: APP/H1515/W/16/3154171
32 Rayleigh Road, Hutton, Essex CM13 1AD

- 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 Williams Developments (Shenfield) Ltd (Mr Terry Williams) against the decision of Brentwood Borough Council.
 - The application Ref 16/00196/FUL, dated 11 February 2016, was refused by notice dated 11 April 2016.
 - The development is a proposed apartment block.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of 34 Rayleigh Road with particular regard to noise and disturbance from vehicle movements.

Reasons

Character and Appearance

3. There are three elements to the Council's concern on this issue: the proposed building, the front boundary treatment and the effect of the parking proposals on the horse chestnut tree to the rear of the site. I deal with each in turn.

The proposed building

4. The appeal property is a detached two storey dwelling with a traditional pitched roof and a single storey garage to one side. It is, therefore, typical of the properties to the east along Rayleigh Road. These are articulated using relatively narrow built forms under pitched roofs giving the buildings a domestic scale.
 5. To the immediate west of the appeal site is a part single, part two storey building known as Triggs Garage. West of the garage, and at the junction between Rayleigh Road and Alexander Lane, is a range of three and four storey apartment blocks (The Junction and Sheldon Court). These buildings are considerably larger in scale than the appeal property and its neighbours. However, they sit comfortably within a spacious setting formed by the broad
-

road junction and the fairly generous landscaped areas which wrap around the front the buildings.

6. Although the appeal building would be set back from the road frontage and follow the established building line, it would sit within a row of regularly spaced properties one and two storeys in height. As such, its setting is considerably more confined than that of The Junction and Sheldon Court and I consider that those buildings do not provide a robust justification for a significant increase in the scale of built development at the appeal site.
7. The appeal proposal is for a three storey, essentially flat roofed, building. Whilst part of the front elevation would be stepped back to follow the staggered alignment of the adjoining properties, the full height flank walls would be around 1m off of the side boundaries. As a result, the space around the existing building provided, in part, by the single storey side garage would be considerably reduced. Consequently, the building would be significantly more bulky and larger in scale than the existing building on the site or its neighbours.
8. This section of Rayleigh Road rises gently from west to east resulting in No 34 being slightly higher than the existing building on the appeal site. The flat roof of the proposed building would be roughly level with the ridge line of No 34. However, this apparent similarity does not take into account the greater bulk and more boxy form of the proposed building. Although the top floor of the front wall would be finished in tile hanging, it would slope steeply and do little to reduce the overall mass of the building. The new building would also be considerably deeper than the existing dwelling or No 34. The reference in the officer's report to the new building extending only 2m beyond the rear wall of No 34 is a comment on the relative positions of the corners of the buildings, rather than the overall depth of the new building.
9. As such, I consider that the increased scale and boxy form of the proposed building would be at odds with the finer massing and articulation found in the more traditional surrounding properties.
10. The appellant has referred to a now expired outline planning permission for the redevelopment of the Triggs Garage site. The sketch included in the appellant's statement shows a three storey building. I have not been made aware of the circumstances of that approval, but note that the Council regarded it as an extension to Sheldon Court. These considerations, together with the expiry of the permission, mean that I can give little weight to that proposal.

Front boundary treatment

11. An open grassed area is proposed at the front of the site adjoining the road. Behind this, the site would be enclosed with a brick wall, metal railings and gates across the proposed drive. The photomontage submitted with the application suggests that the railings and gates would be up to 2m high. The proposal would, therefore, result in the front of the site being significantly more enclosed than is currently the case.
12. Nevertheless, the proposal would retain the grassed area next to the road frontage which is characteristic of many of the properties in this part of Rayleigh Road. Moreover, the fronts of a number of those properties, including No 36, are defined by a combination of walls, gates and substantial planting

which provide a similar degree of enclosure to the appeal proposal. Had I been minded to allow the appeal, a condition could have been used to secure an appropriate landscaping scheme for the front of the site. Of itself, therefore, I find that the proposed front boundary treatment would not add to the harm to the character and appearance of the area identified above.

13. Nevertheless, I find that the proposed building would have a significantly detrimental effect on the character and appearance of the area. It would, therefore, conflict with Policy CP1 of the Brentwood Replacement Local Plan 2005 (LP) to the extent that the policy requires development to be of a high standard of design which is compatible with its location and surrounding development in terms of size and scale, among other things. Nor would the proposed building accord with paragraphs 58 and 60 of the National Planning Policy Framework (the Framework) insofar as they require proposals to respond to local character and reinforce local distinctiveness.

Horse chestnut tree

14. This large tree is located very close to the rear boundary of the appeal site. It is, therefore, a considerable distance away from Rayleigh Road and, were the proposed building to be erected, public views of the tree from this direction would be negligible. However, the tree is considerably more visible from Alexander Lane. Here it can be seen in gaps between the buildings and beyond the vehicular access to The Junction. Therefore, whilst the tree has no statutory protection, it contributes positively to the green backdrop to the buildings along this road and its loss would be detrimental to the street scene.
15. The proposal includes car parking and covered and secure cycle parking in the area of the site within the crown spread of the horse chestnut tree. The appeal submissions do not include an arboricultural assessment of the tree. Nor do they include detailed information on the construction or finished levels of the proposed car and cycle parking. The appellant argues that a pre-commencement condition could be used to secure details of the protection of the tree roots during the construction phase, in accordance with British Standard 5837:2012. However, in the absence of substantive information on the tree or the relevant aspect of the proposals, I cannot be satisfied that any such measures would be achievable or effective.
16. Therefore, I consider that it has not been adequately demonstrated that the proposal would not lead to the loss of the tree and consequential harm to the character and appearance of the area. In this regard the proposal would conflict with LP Policy CP1 in that it presumes against proposals which would have a detrimental impact on the character and appearance of the area and Policy C5 which requires proposals to retain existing trees and ensure satisfactory measures are taken to protect existing landscape features.

Living Conditions

17. The proposal includes a vehicular access adjoining the boundary with No 34 and seven car parking spaces in the area to the rear of the new building and adjacent to the rear garden of No 34. I recognise that vehicle speeds would be low and that the number of movements would be relatively limited due to the scale and sustainable location of the proposal. Nevertheless, new vehicle movements and associated noise such as voices and car doors closing would be introduced into an established and quiet garden setting.

18. The appellant argues that movements would normally take place outside of the times when the adjoining garden is likely to be used. However, the neighbouring occupier would have no control over the use of the parking spaces at any time of the day or night and it would be unreasonable to expect the occupier to curtail their use of the garden.
19. I recognise that the Council's Environmental Health Officer did not object to the proposal. Equally, the appellant has not provided an assessment of existing and predicted noise levels at the site. On the basis of the information available therefore, I consider that the proposal would be harmful to the living conditions of the occupiers of No 34 by reason of noise and disturbance. As such, it would conflict with LP Policy CP1 inasmuch as it presumes against development which would impact on the amenity of nearby occupiers by way of disturbance, among other things. Nor would the proposal accord with Framework paragraph 17 to the extent that it has similar aims.

Other Matters

20. There is no substantive evidence to suggest that the proposal would be harmful to highway safety or the living conditions of future occupiers. However, the absence of further harm does not amount to a positive point in favour of the proposal.
21. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Planning Balance and Conclusion

22. The Council accepts that it cannot demonstrate a five year supply of housing land. Therefore, in accordance with Framework paragraph 49, relevant policies for the supply of housing should be considered out of date. However, the policies which I have relied on deal with issues of character and appearance and living conditions, rather than the supply of housing. There is nothing to suggest that those policies are otherwise in conflict with the Framework. As such, they can be accorded full weight.
23. Framework paragraphs 7 and 8 require the social, economic and environmental roles of sustainability to be considered together.
24. Framework paragraphs 17 and 47 seek to boost the supply of housing and this consideration is given greater weight by the absence of a five year supply. The net addition of six new dwellings would make a positive, if modest, contribution to the supply of housing in the area and, therefore, to the social role of sustainability. This consideration weighs in favour of the proposal. The proposal would also make a limited contribution to the economic role of sustainability, and to the Government's wider objectives for economic growth, in the short term through the construction activity and in the long term by boosting local expenditure.
25. However, I have concluded that the development would be significantly harmful to the character and appearance of the area and to the living conditions of neighbouring occupiers. In these respects, the proposal would have negative effects on the environmental and social roles of sustainability. The adverse impacts of granting permission would, therefore, significantly and demonstrably outweigh the benefits of the proposal.

26. Consequently, I conclude that the proposal would not amount to sustainable development and so is not supported by the presumption in favour of sustainable development set out in Framework paragraph 14.

27. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR