

Appeal Decision

Site visit made on 21 June 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: Friday, 26 July 2019

Appeal Ref: APP/H1515/W/19/3226204

Evelyn Grove, 37 Cricketers Lane, Herongate CM13 3PZ

- 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 Mr & Mrs John Knight against the decision of Brentwood Borough Council.
 - The application Ref 18/01283/FUL, dated 11 August 2018, was refused by notice dated 5 October 2018.
 - The development proposed is construction of new two storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for construction of new two storey dwelling at Evelyn Grove, 37 Cricketers Lane, Herongate CM13 3PZ in accordance with the terms of the application, Ref 18/01283/FUL, dated 11 August 2018, subject to the conditions in the attached schedule.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the Herongate Conservation Area (CA) and on the setting of The Old Bakery (no 29 Cricketers Lane), an adjacent Grade II Listed Building.

Reasons

3. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability. I have also applied the statutory duty in Section 66 of that Act and had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, by attaching considerable importance and weight to that desirability.
4. Herongate is a village which has grown up along the edge of Ingrave Common. The surviving areas of greensward and open space separate it from the busy A128 road and allow it to retain a coherent identity, whilst the tightly knit groups of older buildings, the public houses, the pond and the church provide the essential character of a traditional village¹.
5. The appeal site comprises land which served as the entrance to the former, now demolished, property at 37 Cricketers Lane (no 37). The entrance gate and brick surrounds remain. It is situated at the corner junction of Cricketers

¹ Herongate Conservation Area Appraisal and Management Plan (2009); Chapter 4 Character Statement.

Lane and a Public Right of Way (PROW) which also serves as an access road to the new property at no 37 and a reservoir beyond.

6. The appeal site lies on the northern boundary of the CA across the PROW from The Old Bakery, a 2-storey timber-framed 18th-century building. The Grade II Listed building makes a positive contribution to the character of the CA, as do a pair of early 20th century semi-detached cottages in red brick with white brick detailing (Nos 33 and 31 Cricketers Lane) situated behind it to the east.² The arrangement of these older buildings is therefore reflective of the tightly knit character referred to in the CA Appraisal. At one time³ this character was further reinforced by a building on the appeal site with its frontage parallel to Cricketers Lane and a gable end onto the reservoir road, in a position broadly similar to what is being proposed (albeit the proposal's side elevation would be slightly further from the Old Bakery). Therefore, the new dwelling would therefore not be materially at odds with historical development of the village or the 'tightly-knit' groupings of its historical buildings essential to its character.
7. In this context, I place very limited weight on the importance of maintaining a 'gap' on the appeal site. In any respect, the Council has recently granted approval⁴ (the approved scheme) for a development on the site which would broadly fill the gap to the same extent as the appeal proposal. Further the tree removal has already been granted by the Council under 16/01336/TPO and the associated condition to plant a replacement tree would be discharged under the appeal proposal.
8. Cricketers Lane is characterised by frontage development which faces towards Cricketers Lane. The appeal proposal would do this and in my judgement is more in keeping with the pattern of development than the approved scheme which would involve rotating the frontage so that it would be facing the reservoir access road, at odds with existing properties. Further, the appeal proposal's bay window and chimney stack on its southern elevation would effectively and aesthetically 'turn the corner' at the road junction.
9. The appeal proposal would not be incongruous with the buildings in the streetscene which are predominantly 2-storey and broadly of a similar scale. The building footprint would be smaller than the approved scheme and that of the Old Bakery, and smaller than others in the vicinity. While the width of built form facing Cricketers Lane would be increased over that of the approved scheme, for the reasons I have given this would be more in keeping with the local character of development. Significantly, the width of built form facing the Old Bakery would be substantially reduced in comparison to the approved scheme and in my judgement would therefore not challenge its setting. Despite being 2-storey, the appeal proposal would appear subservient to the listed building; the overall ridge height would be same as the approved scheme with the visual impact broadly the same due to building being built on a lower ground level. Further, the eaves level and ridge level would be lower than the Old Bakery. By orientating the longer frontage of the proposal onto Cricketers Lane it would diminish the challenge to the listed building that would occur by directly facing it across the reservoir road. For the same reason, the proposed entrance and on-site parking provision just outside of the CA and onto

² Herongate Conservation Area Appraisal and Management Plan (2009); Chapter 10 Area Analysis, Chapter 11 Assessment of Contribution to Character.

³ Ordnance Survey extracts from 1896.

⁴ 18/00096/FUL.

Cricketers Lane would be preferable to the approved scheme's entrance on the reservoir access within the CA where it would challenge the group of historic buildings and views of setting along that road. The traditional weatherboarded vernacular design of the proposal would harmonise with the built form of CA buildings, and with the Old Bakery and protect its setting.

10. Taken all together, the proposal would not harm the CA or the setting of listing buildings. Indeed, the replacement of the gates and brickwork with soft hedging would enhance the character and appearance of the CA.
11. I conclude the proposal would enhance the character and appearance of the CA, and would cause no harm to its significance as a designated heritage asset. The proposal would also cause no harm to the settings of nearby listed buildings. The proposed development is therefore in accordance with Saved Policies CP1, C14 and C16 of the Brentwood Replacement Local Plan (2005) which together seek to ensure that proposals are of good design and protect the character and appearance of places and designated heritage assets. The proposal is also in accordance with the heritage protection and design principles of the National Planning Policy Framework.

Other Matters

12. Concerns have been raised by interested third parties about highway safety due to the proposed access from Cricketers Lane. I have considered those representations carefully. However, I note that the Highways Authority has not raised concerns and also that the proposal replicates pre-existing arrangements as to access onto the Lane. I have seen no substantive evidence to indicate that those arrangements are unsafe. The ownership of the verge is not a planning matter which would alter my conclusions.
13. Given the proximity of around 2.5 metres to the boundary of No 39 Cricketers Lane, there would be unacceptable overlooking from the first-floor rear landing window of the new dwelling onto that property. However, this can be dealt with by way of a condition requiring the glazing to be obscured. No other properties would experience direct overlooking at an unacceptably close distance, including those across Cricketers Lane.

Conclusion

14. In addition to the commencement condition, I am attaching a condition specifying the relevant plans as this provides certainty. The Council has suggested conditions which meet the 6 tests of the Planning Practice Guidance and I am imposing them to protect character and appearance, to preserve any archaeological records within the site, to ensure that adequate on-site parking is available and to prevent unacceptable overlooking of nearby dwellings.
15. The proposed development would accord with the development plan as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed with conditions.

Andrew Walker

INSPECTOR

Schedule of conditions

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- (2) The development hereby permitted shall not be carried out except in complete accordance with the following approved plans: SK11/C; SK14; SK4/E; SK13/E; SK14/A.
- (3) Notwithstanding the details indicated in the application, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (4) Notwithstanding the approved plans, additional drawings that show details of proposed new windows, doors, dormers, chimneys, boundary wall and fences, arches, eaves, verges and cills by section and elevation at scales between 1:1 and 1:20 as appropriate shall be submitted to and approved by the LPA in writing prior to the commencement of any works. The development shall be carried out in strict accordance with the approved details.
- (5) All new brickwork shall be constructed to give the appearance of Flemish bond.
- (6) All external joinery shall be of painted timber.
- (7) All rainwater goods shall be black and made of cast metal.
- (8) No groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological monitoring in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.
- (9) The development shall not be occupied until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.
- (10) Prior to the occupation of the dwelling hereby permitted a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall indicate the existing trees shrubs and hedgerows to be retained, the location, species and size of all new trees, shrubs and hedgerows to be planted or transplanted, those areas to be grassed and/or paved. The landscaping scheme shall include details of all surfacing materials and existing and proposed ground levels. The landscaping scheme shall be completed during the first planting season after the date on which any part of the development is commenced or in accordance with a programme to be agreed in writing by the local planning authority. Any newly planted tree, shrub or hedgerow or any existing tree, shrub or hedgerow to be retained, that dies, or is uprooted, severely damaged or seriously diseased, within five

years of the completion of the development, shall be replaced within the next planting season with another of the same species and of a similar size, unless the local planning authority gives prior written consent to any variation.

- (11) The first-floor rear window serving the landing area shall be: a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration and b) non-opening below a height of 1.7m above the floor of the room in which the window is installed. The window shall be installed prior to the first occupation of the building or use of the room of which the window is installed. The window shall remain so glazed and non-openable. (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition).
- (12) The area for parking identified on the approved drawing reference SK13 Rev E shall be provided prior to the first occupation of the development hereby permitted and shall thereafter remain available for parking the vehicles of the occupiers of the dwelling in perpetuity. The parking area shall not be used for the parking or storage of any caravan, boat or trailer.