



Appeal Decisions

Site visit made on 10 November 2020

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Appeal A Ref: APP/H1515/W/20/3249409

Garth Cottage, Cricketers Lane, Herongate, CM13 3QB

- 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 T Killarney against the decision of Brentwood Borough Council.
 - The application Ref 19/01476/FUL, dated 21 October 2019, was refused by notice dated 13 December 2019.
 - The development proposed is demolish existing garage and construct detached dwelling (revised application of 19/0400/FUL).
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Appeal B Ref: APP/H1515/W/20/3257474

Garth Cottage, Cricketers Lane, Herongate, CM13 3QB

- 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 Killarney against the decision of Brentwood Borough Council.
 - The application Ref 20/00468/FUL, dated 6 April 2020, was refused by notice dated 10 July 2020.
 - The development proposed is demolish existing garage and construct detached dwelling.
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Decisions

Appeal A Ref: APP/H1515/W/20/3249409

1. The appeal is dismissed.
2. An application for costs was made by Mr T Killarney against Brentwood Borough Council. This application is the subject of a separate Decision.

Appeal B Ref: APP/H1515/W/20/3257474

3. The appeal is allowed and planning permission is granted to demolish existing garage and construct a detached dwelling at Garth Cottage, Cricketers Lane, Herongate, CM13 3QB in accordance with the terms of the application, Ref 20/00468/FUL, dated 6 April 2020, subject to the conditions set out in the attached schedule.
4. An application for costs was made by Mr Killarney against Brentwood Borough Council. This application is the subject of a separate Decision.

Procedural Matter

5. As set out above, there are two appeals on this site. Both proposals are for a detached dwelling but they differ in terms of the size and design. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

6. The main issues in both appeals are the effect of the proposed development on the character and appearance of the area; and the effect of the proposed development on the setting of 'Suffolk House', a Grade II listed building.
7. With regard to appeal A only, the effect of the proposed development on the living conditions of future occupiers, with reference to outdoor space.

Reasons

Character and appearance

8. The appeal site lies to the rear of Garth Cottage, which is a detached bungalow. The site forms part of the rear garden of Garth Cottage and includes a detached garage which is adjacent to the rear boundary of the site.
9. The surrounding area is built up in character and appearance. There is a mix of housing types and a wide variety of architectural styles from different periods. The street scene comprises mainly residential dwellings and includes two storey dwellings, chalet style dwellings and bungalows, displaying a range of materials and roof forms.
10. The appeal site is also close to 'Suffolk House', a Grade II listed building located on the opposite side of Cricketers Lane. The site is outside of Herongate Conservation Area which lies further to the south east of the site.
11. The site has been the subject of several previous planning applications for a new dwelling. The most relevant of these is planning permission granted for a one-bedroom bungalow with a garage attached on the side¹. Partial foundations have been laid and the main parties agree that this permission has been implemented and is therefore extant.

Appeal A

12. The Council refer to the loss of mature hedging. I noted on my site visit that only a short section of coniferous hedging exists and that this is on the inside of the side boundary which is formed by a low brick wall with high fencing panels above. Whilst the hedge is slightly higher than the boundary treatment, it is limited in its extent and I do not consider that it represents a feature that makes a valuable contribution to the landscape character of the area. Whilst I appreciate that the hedge may in the past have been more substantial, this is not a matter to which I attach any significant weight.
13. The dwelling proposed under Appeal A would be chalet style with two dormer windows on the front elevation. The ridge height of the dwelling would be higher than that of the bungalow previously approved² and its scale, bulk and

¹ Ref. 14/00996/FUL

² Ref. 14/00996/FUL

mass would be considerably greater. The proposed dwelling would extend across much of the width of the site and with the removal of some of the existing boundary enclosure adjacent to Cricketers Lane, would be visually prominent in the street scene.

14. I acknowledge that the surrounding area is highly mixed in character and appearance and includes other chalet style dwellings. However, the proposed dwelling would be in close proximity to the host property, Garth Cottage which is single storey. Given its proximity to Garth Cottage, the overall height and prominent features such as the front dormer windows and large gabled entrance, the proposed dwelling would appear overly large in relation to its constrained plot and in relation to Garth Cottage. Furthermore, the introduction of a dwelling of this scale into what is predominantly the rear garden of Garth Cottage, would impact upon the spatial character of this part of Cricketers Lane.
15. I conclude that the proposed dwelling would have a harmful effect on the character and appearance of the area. As such it would be contrary to Policy CP1(i) and CP (iii) of the Brentwood Replacement Local Plan 2005 which together seek to ensure that proposals would not have an unacceptable detrimental impact on visual amenity or the character and appearance of the surrounding area and are of a high standard of design, compatible with its location and surrounding development.

Appeal B

16. The dwelling proposed under Appeal B is a more modest bungalow than the chalet style dwelling proposed under Appeal A. The height and depth of the bungalow would be the same as that already approved on the site³. The current proposal would integrate the area previously occupied by the flat roof garage into habitable space, with the hipped roof extended over. The overall width of the dwelling would be slightly greater than the combined width of the dwelling and attached garage previously approved.
17. The bulk and mass of the roof structure of the dwelling would be greater than that previously approved by the Council. Whilst the roof structure would appear more elongated, the proposed dwelling would be of an appropriate scale in relation to Garth Cottage. The proposed bungalow would have a low eaves and ridge height and whilst a section of the existing boundary would be removed, it would not appear unduly prominent in the street scene and would not significantly detract from the spatial character of the surrounding area.
18. The Council state that there is a lack of need for this specific housing in this location. However, the Council has also accepted that it does not have a 5-year supply of housing. The site is within the development boundary and I am satisfied that the dwelling could be accommodated on the site without material harm to the character and appearance of the area. In the absence of any further substantive evidence relating to lack of need, this is not a matter to which I attach any significant weight.
19. I therefore conclude that the dwelling proposed under Appeal B would not have a harmful effect on the character and appearance of the area and accordingly would comply with LP policies CP1(i) and CP1 (iii) as referred to above.

³ Under LPA Ref 14/00996/FUL

Setting of Listed Building

20. Suffolk House, is located on the opposite side of Cricketers Lane to Garth Cottage. The house is timber framed with weather boarding and roofed in handmade red clay tiles. The listing description confirms that it is C17 and that it has been subsequently extended and altered.
21. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, "in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".
22. Furthermore, the National Planning Policy Framework (2019) (the Framework) advises that heritage assets are irreplaceable resources and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
23. Suffolk House is already located close to other residential dwellings. It is directly adjacent to Nos 45 and 47 Cricketers Lane which are chalet style semi-detached dwellings with dormer windows on their front elevation and is viewed in the same context as these dwellings.
24. I accept that the appeal proposals would introduce further built form in close proximity to the listed building. However, the dwelling proposed under each appeal would be stepped in from the front elevation of the adjacent two storey dwelling and the flank elevation of Garth Cottage. I acknowledge that both of the proposed dwellings would have a more elongated roof form than that of the consented bungalow, however, having regard to the existing context and the dwellings that already surround Suffolk House, I am satisfied that the dwelling proposed under Appeal A and Appeal B would not be materially harmful to its setting. With regard to the Council's comments concerning precedence, any future application along Cricketers Lane would similarly be assessed on its own merits.
25. I note that this part of Cricketers Lane is one of the thoroughfares into Herongate Conservation Area. However, given the distance of the appeal site from the Conservation Area boundary, and the intervening mix of housing styles, neither dwelling proposed under Appeal A or Appeal B would materially harm the setting of Herongate Conservation Area.
26. Accordingly, the proposals associated with Appeals A and B would have a neutral impact on the ability to appreciate and understand the listed building. I find therefore, that the special interest and thus, significance, of the listed building would be preserved. This would satisfy the requirements of the Act, the Framework and be consistent with Policy C16 of the LP which seek to ensure that development in the vicinity of a listed building does not detract from its character or setting.

Living Conditions – Appeal A

27. The Council states that rear amenity space of 80m² would be below the standard of 100m² as indicated in its Residential Design Guide. Although I have

not been provided with a copy the Council acknowledges that this measurement is for guidance only but that it provides a good indicator as to an appropriate area of enjoyment. The appellant has provided an extract from the Essex Residential Design Guidance which states that circumstances under which insistence on a minimum 100sqm garden area is inappropriate includes houses of one or two bedroom size. The extract also confirms that in practice, the Council may accept garden sizes of 75sqm in the case of two bedroom properties.

28. In this case, the rear garden area is broadly rectangular and would, in my view provide an adequate size of useable space. Thus, I am not persuaded based on the evidence before me that the proposed amount of outdoor space would be inadequate for a two bedroom dwelling. I therefore conclude that the proposal under Appeal A would not have a harmful effect on the living conditions of future occupiers with particular reference to outdoor space. Thus, there would be no conflict with Local Plan Policy CP1 (iii) in this regard.

Other Matters

29. The Council does not dispute the appellant's contention that it is unable to demonstrate a five year supply of deliverable housing. As such, the relevant policies for the supply of housing should not be considered up-to-date and paragraph 11 of the Framework should be applied. Whilst the Framework refers to boosting significantly the supply of housing, the provision of one additional unit would make little meaningful difference. Also, in this case, there is an extant permission for a one bedroom dwelling on the site. When assessed against the policies in the Framework as a whole, the adverse impacts I have found in relation to Appeal A would significantly and demonstrably outweigh the benefits.
30. With regard to third party comments concerning parking and highway safety, I note that the Highway Authority were consulted and raised no objection to the proposal. In the absence of any substantive evidence to the contrary, I find that the proposal is acceptable in terms of parking provision and highway safety.
31. Whilst interested parties have commented about potential damage to kerbs, the road surface, walls and hedges etc and issues relating to the demolition of the garage, these are not matters that I can take into account as part of this appeal.
32. Having regard to the siting and design of the dwellings and window positions, I am satisfied that the proposals would not have a material impact on the living conditions of the occupiers of nearby properties as a result of loss of light or overlooking.

Conclusions

33. With regard to Appeal A, whilst I have found no harm in relation to the setting of the listed building or in relation to the living conditions of future occupiers in terms of outdoor space, I have found that the proposal would be harmful to the character and appearance of the area. For these reasons, and having regard to all matters raised, the appeal is dismissed.
34. For the above reasons and having regard to all other matters raised I conclude that Appeal B should be allowed.

Conditions (Appeal B)

35. I have had regard to the conditions suggested by the Council. In addition to the standard implementation condition, the approved plans condition is imposed for clarity. I have imposed a condition relating to materials, landscaping and boundary treatment in the interests of visual amenity of the site. I have also removed permitted development rights in relation to the erection of fences, gates and walls in the interests of the visual amenity.
36. I have imposed conditions relating to the vehicle access and the provision of parking spaces in the interests of highway safety. A condition requiring the submission of a Construction Management Plan commensurate with the size of the development is also necessary in the interest of highway safety. Further conditions are included to ensure the provision of secure cycle parking and to encourage sustainable travel and transport.
37. I have also imposed a condition removing permitted development rights for development falling within Classes A, B and E of Schedule 2, Part 1, of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) in order for the Council to retain control of further extensions and outbuildings in the interests of protecting the living conditions of occupiers of neighbouring dwellings and the character and appearance of the area. Notwithstanding paragraph 53 of the Framework and advice contained within National Planning Policy Guidance, this condition is necessary in this particular case due to the sensitive location and constrained size of the site.

J Davis

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: SK/26320.1.2
- 3) No development above existing ground level shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling 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) No development above existing ground level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the

- development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) 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.
 - 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no fences, gates or walls shall be erected within the curtilage of the dwellinghouse hereby permitted without the prior grant of specific planning permission by the local planning authority.
 - 8) Prior to the first occupation of the development the vehicle access shall be widened as shown in principle on planning drawing SK/26320.1.2. The access shall be provided with an appropriate vehicular crossing of the highway.
 - 9) Prior to first occupation, the dwelling shall be provided with a minimum of two on-site vehicle parking spaces as shown in principle on planning drawing SK/26320.1.2. Each parking space shall have dimensions in accordance with current parking standards. The vehicle parking area shall be retained in the agreed form at all times and shall remain available for the parking of vehicles of the occupiers of the dwelling. The parking area shall not be used for the parking or storage of any caravan, boat or trailer.
 - 10) Prior to first occupation the cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.
 - 11) No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) The parking of vehicles of site operatives and visitors
 - ii) Loading and unloading of plant and materials
 - iii) Storage of plant and materials used in constructing the development
 - iv) Wheel and underbody washing facilities.
 - 12) No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary.
 - 13) There shall be no discharge of surface water from the development onto the highway.
 - 14) Prior to first occupation of the proposed development, the developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by the Local Planning Authority to include six one day travel vouchers for

use with the relevant local public transport operator. These packs (including tickets) shall be provided to the first occupiers of each of the new dwellings free of charge.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), the new dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2, Part 1, Class A or B of that Order, nor shall any building or enclosure be constructed within the curtilage of the dwellings hereby permitted under provisions of Schedule 2, Part 1, Class E of that Order.