



Appeal Decision

Site visit made on 22 February 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2022

Appeal Ref: APP/H1515/W/21/3284923

Braeside, 112 Priests Lane, Shenfield, Essex CM15 8HN

- 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 Gennings against the decision of Brentwood Borough Council.
 - The application Ref 21/01274/FUL, dated 13 July 2021, was refused by notice dated 10 September 2021.
 - The development proposed is described as the 'Demolition of existing house and garage and construction of two detached houses. Resubmission of refused application: 21/00509/FUL.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of occupants of 108 Priests Lane, with particular regard to its overbearing effect.

Reasons

Character and Appearance

3. The appeal site comprises an existing detached, 2 storey dwelling with separate garage/outbuilding, set within a large plot. There are a number of trees within the front and rear gardens of the site, including a protected oak tree in the front garden. The surrounding area is characterised by detached dwellings of varied design and scale, set within well sized plots. Together with trees and other foliage within these properties, the area has a verdant and spacious character to which the appeal site positively contributes.
4. The proposed dwellings have been designed to provide three storeys of accommodation, although each presenting a frontage which would ostensibly be two storeys. However, the third floor is acknowledged within the designs and would be served by glazing to the upper part of the main front gables and a front dormer window.
5. The proposed dwellings would be set back from the position of the existing dwelling, albeit they would be forward of where they were sited in a previous scheme. The proposed dwellings would have a consistent building line with each other. However, their positioning would not appear to take account of the alignment of the houses on both sides of the site. As a result of the above, the dwellings would appear at odds with their setting and more related to each other than to their surrounding context.

6. Despite their set back position within the site, the depth of the proposed dwellings would be evident from Priests Lane. This depth, in combination with the height of the buildings, would result in the side elevations, particularly the northern elevation of Plot 2 and to a lesser extent the southern elevation of Plot 1, presenting as large expanses of brickwork with only three, relatively small windows at first floor level. The result would be prominent but largely blank walls which would produce discordant, bulky features. Furthermore, although the spacing between the proposed buildings, and the spacing to neighbouring properties, would not generally be out of keeping with the area, the combination of the large blank walls and scale of the buildings would make the houses appear overly large when compared to other development, giving the scheme a somewhat cramped appearance that would detract from the character and appearance of the locality.
7. There appears to be broad agreement between the main parties that the works to construct the dwellings could be undertaken without causing harm to the trees on site which are to be retained. The house on Plot 1 would be positioned slightly away from the retained oak and ash trees on the site's southern boundary, and the crown spread of the oak would be above the dwelling. I acknowledge that windows on the southern elevation would be limited and either secondary or obscurely glazed. Nevertheless, the trees would, it seems to me, be likely to block light and cause overshadowing to large parts of the glazing on the dwelling's rear elevation which would serve the proposed dining and TV areas. They would have a similar effect on parts of the rear patio.
8. In view of the above, it seems likely that there would be significant pressure from future occupiers to remove these trees, which although not protected, offer some amenity value to the wider area. I also note from the arboricultural report that each tree is estimated to have over 40 years of life remaining. As such, there is no reason to assume that their retention would not have ongoing benefits to the area, whereas their removal would cause harm to the verdant qualities, and thus character, of the area.
9. Whilst variety and difference does not necessarily lead to harm, in this particular instance the proposed buildings would be of a size and position that would have a jarring visual relationship with their surroundings that would harm the wider area. The likely loss of the trees on the southern boundary would add to this harm. I acknowledge that there are a number of sizable properties within the vicinity. However, these appear to assimilate acceptably in terms of their design and appearance and do not, based on what I have seen, harm the character and appearance of the street scene in the same way the appeal proposals would.
10. Accordingly, the proposal would be contrary to Policies CP1(i), (iii), and C5 of the Local Plan¹ which, amongst other things, seek to ensure that developments are of a design, size and scale compatible with their location and existing trees are retained so that the character and appearance of the surrounding area is not adversely affected.
11. The proposal would also be contrary to the Framework's² objectives for good design which, amongst other things, seek to ensure developments are sympathetic to local character.

¹ Brentwood Replacement Local Plan (2005)

² National Planning Policy Framework (2021)

12. I also note that the proposal would be contrary to Characteristic C1 of the National Design Guide³ which, amongst other things, seeks to ensure development relates well to the site as well as its local and wider context.

Living Conditions

13. Given the depth of the proposed dwelling on Plot 1, a significant part would extend beyond the rear elevation of 108 Priests Lane. A large area of blank wall and roof would be visible from the neighbour's rear garden, and patio area in particular. However, the rear of the proposed dwelling would be just over 2.7m from the boundary and would be angled away from the neighbouring dwelling. I also note that the appeal site is at a slightly lower ground level than the neighbouring property, which is also set slightly away from the boundary. The retained trees along the boundary would provide some additional element of screening.
14. Taking these factors together, I do not consider that the proposed dwelling to Plot 1 would be an overly intrusive feature such that it would be overbearing and dominate the outlook or significantly compromise the enjoyment from this part of the neighbour's garden. In this respect, the proposal would not therefore harm the living conditions of neighbouring occupiers at 108 Priests Lane.
15. The proposed development would accord with Policy CP1(ii) of the Local Plan which, amongst other things, seeks to protect existing neighbours from overbearing development. The proposal would also comply with Paragraph 130 of the Framework insofar as it seeks to ensure developments provide a high standard of amenity for existing users.

Other Matters

16. I acknowledge that the proposal is a revised scheme, designed to overcome the previous concerns raised by the Council, which were similar to those raised in relation to this appeal. The changes principally reduce the size of the dwellings, reposition them further forward and offer an amended external finish. However, the changes are not sufficient to overcome the harm caused to the character and appearance of the area given the size and position of the proposed dwellings.
17. Third parties have suggested, amongst other things, that the proposed development would cause harm to the living conditions of the occupants of properties to the rear of the site. I am aware of the Council's findings in this regard. That said, if I were to find that the appeal scheme would not cause harm to the living conditions of these neighbours, my conclusions on the effect of the proposed development on the character and appearance of the area would not change and, subsequently and by association, neither would the outcome of the appeal.
18. The appellant points to the existing street numbering and suggests that the appeal site would originally have been laid out to accommodate more than a single dwelling. In addition, the existing dwelling is said to be in poor condition and not worthy of retention. Although the Council has not specifically objected to the loss of the existing building nor the principle of two new dwellings on the site, these factors in themselves do not mean that the current scheme is

³ National Design Guide - Planning practice guidance for beautiful, enduring and successful places (2021)

acceptable. Furthermore, they do not absolve me from making an assessment as to the effects of the proposal in regard to the main issues of the case.

19. The appellant notes that the proposal did not attract a highway objection and would provide each dwelling with cycle storage and a travel plan. Furthermore, a number of other factors are identified in support of the proposal, including: the internal accommodation within the roof would be well lit; adherence to the 45-degree rule would protect neighbours; traditional materials would be used; and the dwellings would incorporate features that reflect prevailing characteristics of the area. However, these factors would represent a lack of harm which would accordingly be neutral in any balance.

Conclusion

20. The proposal would harm the character and appearance of the area and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. The fact that I have found in the appellant's favour with regard to the effect of the proposal on the living conditions of neighbouring occupants does not outweigh the harm I have identified to the character and appearance of the area and so does not alter my conclusion.
21. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR