
Appeal Decision

Site visit made on 12 April 2022

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/H1515/W/21/3286153

Chelmer Cottage, Docklands Avenue, Ingatestone CM4 9DS

- 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 Rose against the decision of Brentwood Borough Council.
 - The application Ref 21/00462/FUL, dated 16 March 2021, was refused by notice dated 14 May 2021.
 - The development proposed is the demolition of Chelmer Cottage and the erection of 2 new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of Chelmer Cottage and the erection of 2 new dwellings in accordance with the terms of the application Ref 21/00462/FUL, dated 16 March 2021, subject to the conditions in the attached Schedule.

Preliminary matters

2. After all the main submissions were made for this appeal, the Council adopted the Brentwood Local Plan 2016 – 2033 (BLP) which replaces the Brentwood Replacement Local Plan of August 2005 as part of the development plan for the area. Both the Council and the appellant have had the chance to comment on the implications of this new plan and agree that its key policies for the main issues in this appeal are BE14 (Creating Successful Places) and NE07 (Protecting Land for Gardens).
3. Both main parties also refer to BLP policy NE01 (Protecting and Enhancing the Natural Environment), which states that development likely to have a significant impact on European Designated Sites of nature conservation importance the developer will be required to either contribute towards mitigation measures identified in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document or identify and implement bespoke mitigation. It is agreed by both main parties that the site falls within the Blackwater Estuary Special Protection Area (SPA) and comes within the scope of this policy.
4. In its comments on the new BLP, the Council did raise an objection in respect of failure to comply with new policy NE01. That objection is now withdrawn,

however, following direct payment of a contribution towards mitigation measures for the SPA. As that matter has been resolved between the parties with no need for a legal agreement or undertaking under the Town and Country Planning Act 1990, I need not consider this further.

5. Prior to the adoption of the BLP the Council was reporting only a 1.95 year housing land supply, well short of the required 5 year housing land supply (5YHLS). Although a 5YHLS is now presumed to exist in line with paragraph 75 of the National Planning Policy Framework (the Framework), the presumption in favour of sustainable development set out at Framework paragraph 11 does still apply due to under-delivery of housing. This under-delivery is confirmed by recent Housing Delivery Tests showing delivery running at less than 75% of requirement.

Main issue

6. The main issue is the effect of the proposal on the character and appearance of the local area including the setting of the Ingatestone Conservation Area.

Reasons

7. Chelmer Cottage is a 1960s style detached house sitting on a large corner plot at the junction of Docklands Avenue and Roman Road, the main route through the village. This is one of 3 consecutive junctions on this side of Roman Road where the corner plots are set back behind triangular areas of green space, helping to create a spacious entrance to the village. Chelmer Cottage is set particularly far back from Roman Road, with a large side garden next to the green space. The proposal is to replace the existing house with 2 detached houses, extending built development into part of that side garden.
8. The Council's key concern is that the new house on Plot 1 would project beyond the established building line to the south west, eroding the orderly, defined spatial openness of the entrance to Docklands Avenue. The building line along Roman Road is, however, somewhat irregular and is also difficult to discern on the ground due to the set back of the houses, their varied architectural design and the landscaping of the frontages. It appears to me that this proposal would represent a marginal infringement of the established building line which would be not be clearly perceived in views from either street. Plot 1 would still have a spacious side garden and boundary trees could be protected during construction and retained to provide a green setting and soften views of the new house. The triangle of green space outside of Chelmer Cottage's garden would not be affected.
9. The scale, massing and design of the houses would be similar to others nearby. The proposed houses would fit reasonably comfortably onto the site and would complement the local street scene. The Ingatestone Conservation Area is far enough away from the site that there would be no significant impact on its setting.
10. I conclude that the proposal would not harm the character or the appearance of the local area or the setting of the conservation area. It therefore accords with the aims of BLP policies BE14 and NE07, the Framework and the National Design Guide, to ensure that development responds positively and sympathetically to its context to create high quality buildings and sufficient garden space.

11. I have also considered the objections raised by neighbours. Due to the length of the rear gardens, the windows at the back of the new houses would be far enough away from neighbours so that they would not significantly harm their privacy. I have not seen any evidence that the local sewer is over capacity, such that outflow from one extra dwelling could not be accommodated.

Conditions

12. I have considered the Council's suggested conditions in light of the tests set out in the Framework. I impose a condition specifying the relevant plans to provide certainty. 3 conditions requiring approval of details before commencement of development are necessary because they are critical to the initial phases of the project: a Construction Method Statement is needed to ensure that the development is carried out without undue effect on neighbours and highway users; and approval of site and floor levels and landscaping/tree protection is necessary to protect the character of the site and the local area.
13. Details of building materials, boundary treatments, refuse storage and hard surfacing are also required in the interest of local character and appearance, with the use of bound materials on the access drives for highway safety. Notwithstanding the detail of the submitted plans, a condition controlling access provision is also needed to ensure safe access to the houses. Conditions regarding cycle parking and travel information packs are imposed in the interest of sustainable travel.
14. Only limited external parking and turning space would be provided on the site, so a condition is also needed to prevent the conversion of the garages to use as accommodation. Finally, obscure glazing of some first floor side windows is needed to protect privacy. Details are required to ensure that appropriately designed opening lights can be provided within these windows where required for ventilation. As 2 of these windows serve stairways, the standard wording requiring fixed lights up to 1.7m above the room's floor level does not apply.

Planning balance and conclusion

15. The presumption in favour of sustainable development at Framework paragraph 11 applies here due to the Council's under-delivery of housing. For this case, this means that permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. I find that the proposed development would accord with and complement the character of the area, meeting the design quality aspirations of both the Framework and the BLP. The proposal would also represent a net increase of one new dwelling, helping in a small way to address the under-delivery of housing within the District, in accordance with the Framework's objective of significantly boosting the supply of homes. I see no adverse impacts that would outweigh the benefits of the proposal. I therefore conclude that the proposal represents sustainable development and that the appeal should succeed.

Les Greenwood

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21/0503/01, 21/0503/02, 21/0503/03, 21/0503/04, 21/0503/05, 21/0503/06, 21/0503/07, 21/0503/08, 21/0503/09 and 21/0503/10.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved 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;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - vii) hours of working and hours during which deliveries may be taken at the site.
- 4) Details of existing and proposed site levels and the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. Construction shall be in strict accordance with the approved details.
- 5) No development shall take place until a landscaping scheme showing details of new trees, shrubs and hedges and any existing trees/hedges to be retained and measures to be taken for their protection during the development, including timing of tree protection measures and planting, has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme including tree protection measures shall be carried out as approved. 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 5 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.
- 6) Notwithstanding the approved drawings and the materials listed within the application form, no above ground building works shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) The dwellings hereby permitted 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 retained.

- 8) The dwellings hereby permitted shall not be occupied until details and specifications of refuse storage facilities to either the side or rear of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details and the approved refuse storage facilities shall be retained thereafter.
- 9) Details of the surfacing materials of driveways and parking areas shall be submitted to and approved in writing by the Local Planning Authority prior to the construction or laying of any hardstanding. All hard surfacing specified in the approved details shall be provided in strict accordance therewith prior to occupation of the dwellings hereby permitted and shall be retained thereafter.
- 10) No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary.
- 11) Prior to first occupation of the dwellings hereby permitted and notwithstanding the width details on the planning drawing 21/0503/04, each vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of each access at its junction with the highway shall be 3.6 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway. Any redundant parts of the existing accesses on the frontage shall be suitably and permanently closed incorporating the reinstatement to full height of the highway footway and kerbing immediately the proposed new accesses are brought into first beneficial use.
- 12) The dwellings hereby permitted shall not be occupied until secure, convenient and covered cycle parking has been provided in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained available for cycle parking at all times.
- 13) The dwellings hereby permitted shall not be occupied until a Residential Travel Information Pack for sustainable transport, to include 6 one day travel vouchers for use with the relevant local public transport operator, has been provided to each initial householder free of charge in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 14) Vehicular access to the garages shall not be restricted by any reduction in the size or change to the garage door and the clear space within the garages shall not be reduced in size through the construction of internal walls. The garages shall not be used or adapted for use for any purpose other than domestic storage and the parking of private motor vehicles associated with each dwelling and shall not be used for habitable living accommodation of any kind.
- 15) Each of the dwellings hereby permitted shall not be occupied until its above ground floor level side windows, on both flanks of Plot 2 and on the south-east flank of Plot 1, have been: (a) glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration; and (b) installed with non-opening lower sections, all in accordance with details first submitted to and approved in writing by the Local Planning Authority. The windows shall thereafter be retained in accordance with the approved details.