
Appeal Decision

Site visit made on 17 May 2022

by C Shearing BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/H1515/W/21/3283170

158 Brentwood Road, Herongate, Essex CM13 3PF

- 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 Ragavan Raman against the decision of Brentwood Borough Council.
 - The application Ref 21/00298/FUL, dated 21 February 2021, was refused by notice dated 23 April 2021.
 - The development proposed is creation of 1no 3 bedroom dwelling and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council have recently adopted the Brentwood Local Plan 2016-2033 (2022) (BLP), replacing the saved policies of the Brentwood Replacement Local Plan (2005). The main parties have had chance to comment on the new policies so far as they are relevant to the main issues. I have determined the appeal on the basis of the most up to date development plan.

Main Issues

3. There are four main issues. These are the effect of the proposed development on a) the character and appearance of the area; b) highway and pedestrian safety with specific regard to visibility; c) the privacy of the occupiers of 162 Brentwood Road; and d) whether the proposed development would provide an acceptable level of privacy and standard of outdoor space for future occupiers.

Reasons

Character and Appearance

4. The appeal site is in a residential area where properties vary in their design, scale and type. There is similar variation in the presentation of buildings to the street and boundary treatments. Off street parking is common, as is soft landscaping to front gardens. While the extent of gaps between properties is far from uniform, in combination with the soft landscaping, they lend a pleasant sense of spaciousness and a verdant feel to the area. The site allows visibility from the street to the properties behind and also views of the planting within their rear gardens. As a result of these combined factors, the appeal site contributes positively to the character and appearance of the area.
5. The proposed development would result in the loss of some open space to the side of No 158. Despite this existing space being hard surfaced, it contributes

positively to the sense of spaciousness, breaking up the townscape with some low level planting. Furthermore, and by reason of its scale, positioning and proximity to the side and rear site boundaries, the proposed development would appear cramped on its plot and would provide very limited opportunities for any mature landscaping around the site. This would be perceivable in views from the street, particularly due to the positioning of 162 Brentwood Road, which would expose the proposed side elevation and the depth of the plot.

6. The front garden areas of both No 158 and the new dwelling would be hard surfaced as part of the development. The lack of a front boundary treatment to this length of frontage and the absence of any soft landscaping would jar with the established character of the street in this regard. Given the importance of the front boundary treatments, the likely scale of change required, and also the potential for impacts on required visibility splays, I do not consider it would be reasonable for such matters to be addressed by a planning condition.
7. The proposed development would therefore harm the character and appearance of the area, as such it would conflict with Policies NE07 and BE14 of the BLP insofar as they require development to be appropriate to the surrounding pattern of development and the character of the area. There is also conflict with the design objectives of the National Planning Policy Framework (the Framework).

Highway and Pedestrian Safety

8. Brentwood Road is classified as a Main Distributor on the County Council's Route Hierarchy and at the time of my site visit, in the middle of the day, I found it to be heavily trafficked. While there is an existing crossover serving the appeal site, the proposal would intensify its use and the new crossover would serve tandem parking arrangements for two properties. I find this to be materially different to the existing circumstances.
9. The appellant has provided a plan with the appeal that shows where the visibility splays would fall. To the south the 45 metre splay would extend over the area of the zig-zags adjacent to a pelican crossing and the splay is shown to the centre of the road, rather than the nearside kerb line. This is supported by the Manual for Streets 2 (MfS2) if it is unlikely that vehicles approaching from the left would cross the centreline. In this instance there is no physical segregation between the two directions of traffic, as MfS2 suggests. While traffic it is not permitted to stop within the zig-zag area under other legislation, it could not be said with certainty that it would never occur and there is no physical barrier in the carriageway which would prevent vehicles from crossing the centre point here. On this basis I am not convinced that the conditions created by the pelican crossing amount to circumstances to justify a visibility splay to the centre of the road.
10. I have had regard for the planning permission for housing at 135 Brentwood Road¹, where a condition was imposed to secure the required visibility splays. I do not have full details of that development; however the circumstances would appear to be different as that site is located on a straighter section of road.
11. I have considered whether this matter could be dealt with by a planning condition. However, based on the evidence before me, amending the visibility

¹ 18/01934/FUL

splay would be likely to result in reliance on third party land outside the control of the appellant and outside the appeal site. As such their maintenance could not reasonably be secured by condition.

12. The presence of other access points with substandard visibility splays, nor the absence of recorded accidents relating to other accesses, provide sufficiently clear reason for me to find that the visibility for the proposed development would be acceptable. Substandard visibility, on a heavily trafficked distributor road could have potentially dangerous implications for the safe movement of both pedestrians passing the appeal site and vehicles entering and exiting.
13. The proposal would therefore conflict with Policy BE12 of the BLP insofar as it requires that developments must not have an unacceptable impact on the transport network in terms of highway safety. This approach is supported by paragraph 111 of the Framework where it states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Living Conditions of Neighbouring Occupiers

14. Due to the staggered rear boundary of the appeal site, the rear windows of the proposed property would be close to the front garden of No 162 to the south east. However, as No 162 is set such a distance from the highway, there would remain a significant distance between the habitable room windows of the two properties. While it may be outside the appellant's control, the trees and landscaping on the boundary would also serve to provide additional screening from overlooking.
15. While there is likely to be some impact on No 3 Cricketers Road, by reason of the distances between the properties and as the angle of any views would be oblique, there would not be an unacceptable effect on the living conditions of its occupiers. Details of boundary treatments could in any event be secured by condition if the proposal were otherwise acceptable.
16. The proposed development would therefore not cause harm to the living conditions of the occupants of No 162 in terms of privacy. As such, it would comply with Policies NE07 and BE14 of the BLP which require, among other things, for development to safeguard the living conditions of adjacent residents.

Living Conditions of Future Occupiers

17. The proposed property would benefit from an area of private outdoor amenity space to the rear. The appellant calculates this would be approximately 71sqm. The space would be directly accessible from the new property and would generally benefit from good levels of privacy. The space would be of an adequate size to accommodate soft landscaping and residential paraphernalia as may be required by future occupants.
18. With regard to the privacy of the new property, for the reasons discussed above relating to the relationship to No 162, I do not consider the property would be subject to unacceptable overlooking. While there may be some corresponding oblique views towards the property from the first floor windows of 3 Cricketers Row, these would not cause unacceptable harm to the living conditions of the occupiers of the new property.

19. Future occupants of the development would therefore benefit from an acceptable standard of living conditions. In this respect the proposal would be compliant with Policies NE07 and BE14 of the BLP insofar as they seek to protect the living conditions of future occupants.

Other Matters

20. The Council accept that it has a shortfall in housing delivery and this was substantially below the housing requirement over the previous three years. As such the provisions of paragraph 11 of the Framework are relevant to the appeal. The most important policies are deemed to be out of date and I should grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
21. In terms of the main issues of the case before me, I have found harm in regard to the character and appearance of the area and highway safety. The result of such harms would be significant and long lasting, resulting in both cases in conflict with the Framework. I ascribe these harms substantial weight. The proposed development would contribute towards the Council's housing stock, but as a single dwelling, the contribution would be very limited. The appeal scheme would be acceptable in terms of the living conditions of existing and future occupiers but as a lack of harm, such things cannot be considered beneficial.
22. Whilst I would ascribe moderate weight to the provision of housing in this case, it would not be sufficient to outweigh the harms I have found for the reasons I have given. Such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.
23. The Council report that the development also fails to comply with Policies BE02 and BE07 of the BLP, which relate to water efficiency and connections to digital infrastructure. However, as the appeal is dismissed for reasons relating to character and appearance and highway safety, these are not matters which I need to consider further.
24. With regard to parking pressure, this was not a contentious matter between the main parties, and I note that the proposed development would provide an adequate amount of parking for the two houses. Issues relating to damage to property are not a matter for planning. They are private civil matters dealt with under separately enforceable legislation.
25. Whilst the appeal scheme would make use of land and infill a gap, in so doing it would give rise to the harms I have identified in regard to the main issues. In addition, there is some distance between the appeal site and the Thorndon Park Conservation Area. With this in mind, I am satisfied its character and appearance would be preserved.

Conclusion

26. With the above in mind, there are no material considerations, including the approach of the Framework, that are worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed

C Shearing

INSPECTOR