



Appeal Decision

Site visit made on 23 November 2022

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2022

Appeal Ref: APP/H1515/W/22/3293867

134 Hutton Road, Shenfield CM15 8NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Leslie Coe against the decision of Brentwood Borough Council.
 - The application Ref 21/01886/OUT, dated 8 November 2021, was refused by notice dated 25 January 2022.
 - The development proposed is the demolition of the existing single dwelling and construction of apartment building housing nine replacement units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. I have had regard to the submitted plans but, in accordance with the approach of the appellant and the Council, have regarded all elements of these drawings as indicative.
3. Since the application was determined, the Brentwood Local Plan 2016-2033 was adopted (on 23 March 2022). This supersedes the Brentwood Replacement Local Plan (2005). The appellant has had the opportunity to comment on this matter. I have determined the appeal in accordance with the plan in force at the time of this appeal decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to outlook, daylight, sunlight and privacy; and
 - whether the proposed development would provide a satisfactory standard of accommodation for future occupants, with particular regard to outlook, odour and noise.

Reasons

Character and appearance

5. The appeal site comprises an extended and altered two-storey detached property set within a garden plot to the north side of Hutton Road. The immediately surrounding area is residential in character. This transitions into a more commercial character further along Hutton Road.
6. Although a variety of residential properties exist within the surrounding area, the appeal site retains a sense of harmony with properties to its north, south and west. This is due to their consistent setback from the road behind front gardens and driveways and their two-storey scale. Plots generally accommodate a single dwelling.
7. The proposed development would comprise the demolition of the existing dwelling and its replacement with an apartment building accommodating 9 dwellings.
8. Although the submitted plans are only indicative, I acknowledge the appellant's desire to take design cues from the surrounding area, including with reference to materials and gable features. I also acknowledge that as all matters regarding design and scale are reserved for future consideration, the Council retains control over such matters. Nevertheless, the development description makes reference to the provision of 9 dwellings and does not specify minimum or maximum heights, albeit I note a reference within the submitted documentation is made to three storeys. The likely scale of the replacement apartment building, inevitably needing to extend deeper into the rear garden of the appeal site, and/or upwards, relative to the established dwelling, would be at odds with the appeal site and the prevailing character of this part of Hutton Road.
9. I acknowledge that the adjoining Rockleigh Court development is of a very different character and of a larger scale than the appeal site. However, this is positioned on a much larger plot. In that respect it is not directly comparable to the appeal site and it does not provide a robust justification for significantly increasing the scale of development at the appeal site.
10. Similarly, I note the appellant's reference to the established mixed-use buildings of up to three-storeys further along Hutton Road and other development sites¹. This includes the nearby library site, which has planning permission² for a mixed-use redevelopment. I have limited information before me in respect of these other sites and developments. However, they are situated in different locations and in many cases form part of the commercial centre around, or very near to, Shenfield Station. Consequently, they are positioned in locations of a different character to the appeal site. For these reasons, those sites are not directly comparable. In any case, I have considered the proposed development on the evidence presented, and my site observations.
11. Irrespective of whether the building line along Hutton Road would be maintained, or that it is in a busy urban area, it has not been adequately demonstrated that it would be possible to design an acceptable scheme that

¹ Including at 32 Rayleigh Road, Glanthams House, 12 Alexander Lane and 10 Alexander Lane.

² Ref CC/BRW/30/21

could accommodate 9 dwellings within the appeal site. The proposed development would likely appear cramped and discordant in this reasonably modest garden plot, harming the character and appearance of the area.

12. The appellant refers to the distances between the proposed development and nearby properties and boundaries being correct and within regulations. It is not clear which regulations or guidance this relates to. Nevertheless, I have identified above that the proposed development would be harmful in respect of character and appearance, irrespective of precise separation distances and gaps. Where separation distances relate to living conditions, this is dealt with below.
13. Overall, I conclude that the proposed development would unacceptably harm the character and appearance of the surrounding area, contrary to the relevant provisions of Policies BE14 and NE07 of the Brentwood Local Plan 2016-2033 (LP, 2022). These policies, in summary, seek to ensure that development proposals deliver high quality, attractive places to live that respond positively and sympathetically to their context. This is in a similar vein to the objectives of paragraph 130 of the National Planning Policy Framework (the Framework) and the National Design Guide, insofar as good design is concerned.

Living conditions

14. 132 Hutton Road and the appeal property are positioned closely together, with windows to first floor habitable rooms at No 132 positioned near to the shared boundary. The rear elevation of No 132 is currently set back marginally from that of the appeal property, with its main direction of outlook over its rear garden. However, this close relationship currently has only a limited effect on the living conditions of the occupants of No 132. The likely significant change to the scale and position of built form at the appeal site as a result of the proposed development would, in all likelihood, result in an unacceptably harmful sense of enclosure to existing rear facing windows at No 132.
15. The main direction of outlook from the west-facing flats of Rockleigh Court is across their relatively short communal gardens. The proposed development would inevitably extend deeper into the appeal site than is presently the case. This would have the effect of harming outlook from these west-facing flats, and creating an unacceptable sense of enclosure.
16. Occupants at 9 and 11 Margaret Avenue would also experience a change to their outlook as a result of the proposed development, visible both from their rear facing windows and gardens. However, the occupants of those properties would retain an uninterrupted outlook over their own reasonably sized rear gardens. Accordingly, there would be no unacceptable loss of outlook or sense of enclosure to the occupants of Nos 9 and 11.
17. In respect of privacy, the proposed development would likely introduce elevated windows serving habitable rooms and balconies closer to neighbouring properties, including their gardens. At present, occupants at Rockleigh Court and Nos 9, 11 and 132 enjoy reasonable levels of privacy in the direction of the appeal site by reason of the limited built form there, together with the established separation distances between dwellings.
18. The proposed development would, in all likelihood, allow views from upper floor windows, where these do not currently exist, towards existing habitable rooms

and garden areas of those properties. As such, the occupants of Nos 9, 11 and 132 and Rockleigh Court would experience a loss of privacy as a result of the proposed development. This would also have the effect of hampering the enjoyment of their private amenity spaces, which at present are reasonably secluded.

19. In respect of levels of daylight and sunlight, the nearest windows serving habitable rooms are located at No 132. These are rear facing but are positioned close to the shared boundary with the appeal site. Based on the likely significant change to the scale and position of built form at the appeal site, as explained above, the proposed development would likely result in a harmful loss of light to the occupants of that property. There is insufficient evidence before me to demonstrate that appropriate levels of daylight and sunlight would be maintained here. Nearby garden space is positioned to the north of properties fronting Hutton Road. This is already overshadowed to some extent by existing properties. The proposed development would unlikely result in an unacceptably harmful loss of sunlight in those areas.
20. I note the appellant's comment in respect of the proposed development causing similar impacts to established and proposed developments in the area. However, the circumstances and context of each site must be considered on their own, individual merits. That is an approach that I have followed here, and harm has been identified.
21. Overall, I conclude that the proposed development would result in unacceptable harm to the living conditions of the occupants of nearby properties, with particular regard to outlook, daylight, sunlight and privacy, contrary to the relevant provisions of LP Policies BE14 and NE07 which in summary seek to protect the amenity of nearby occupants. This is in a similar vein to the objectives of paragraph 130 of the Framework insofar as living conditions are concerned.

Standard of accommodation

22. Irrespective of the location of the proposed development adjacent to the busy Hutton Road, nearby commercial areas, bin storage areas or its own car parking area or substation, I have no substantive evidence before me which demonstrates that the standard of accommodation for future occupants would be unacceptable in respect of odour or noise. Such matters, in my view, could be adequately dealt with at the reserved matters stage.
23. Notwithstanding the indicative plans submitted, details of the layout of the proposed development, including the position of windows serving habitable rooms are not before me. In respect of comments from neighbours in relation to amenity space, there is no requirement in the evidence before me for the provision of communal amenity space where private amenity space could be provided. Nevertheless, I am of the view that the scale and position of any proposed development accommodating nine dwellings would need to be substantially larger than the existing property. As a consequence, I am not convinced that adequate levels of outlook could be achieved for future occupants without affecting the privacy of neighbouring properties.
24. Overall, I conclude that whilst adequate levels of amenity space would be possible within the site, outlook for future occupants would not be satisfactory. As such the proposed development would be contrary to the relevant provisions

of LP Policy BE14. This policy, in summary, seeks to provide acceptable standards of accommodation for occupants. This is in a similar vein to the objectives of paragraph 130 of the Framework insofar as living conditions are concerned.

Other Matters

25. I note the appellant's reference to the proposed development providing good levels of daylight and energy efficiency measures, and that the proposed development meets some other planning policy objectives. Nevertheless, these matters do not outweigh the harm that I have identified in respect of the main issue.
26. At the time of the original planning application, the Council did not have evidence to demonstrate a five-year housing land supply. Whilst the Council has confirmed that it can now demonstrate a five-year supply, it accepts that it doesn't meet the housing delivery test. As such, and noting the Government's objective of significantly boosting the supply of homes, the provisions of Framework paragraph 11.d)ii apply. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. The proposed development would represent a contribution of eight extra dwellings to housing supply in an area with an acknowledged lack of future provision. There, too, would be some other social and economic benefits of the proposed development, including in supporting employment during construction and the bringing of trade to nearby services and facilities. I note that the site is also located in an accessible position near to various local services, facilities, including the recently enlarged Crossrail terminus. However, these benefits, both individually and cumulatively, would inevitably be reasonably limited given the scale and nature of the development proposed.
28. Moreover, LP Policies BE14 and NE07 are consistent with the Framework and not directly concerned with housing delivery. Therefore, while they are out of date by virtue of paragraph 11.d)ii, I accord the proposal's conflict with them considerable weight in the determination of the appeal.
29. Overall, and given the harm I have identified above, the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The proposed development would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

30. For the reasons given above, having taken account of the development plan as a whole, the approach in the Framework, along with all other material considerations, I conclude that the appeal should be dismissed.

A. Price

INSPECTOR