



Appeal Decision

Site visit made on 21 December 2022

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2023

Appeal Ref: APP/H1515/D/22/3301123

Deer View, Ongar Road, Kelvedon Hatch CM15 0AA

- 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 Stuart Chivers against the decision of Brentwood Borough Council.
 - The application 21/01977/HHA, dated 26 November 2021, was refused by notice dated 25 March 2022.
 - The development proposed is a single storey side, rear extension and creation of first floor over with fenestration and material alterations.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of occupiers of neighbouring residential properties.

Reasons

3. The appeal property known as Deer View, comprises a detached bungalow set well back on the south western side of Ongar Road. It has been extended in the past with rear and side extensions as well as a conservatory. There is a two storey detached property adjacent to the south east boundary known as Fairview, whilst to the north, and set well forward of the appeal property, is No 38 Ongar Road, which has first floor accommodation in a half hipped gable to front and rear. To the north west is a substantial two storey property listed as Hydaway House on the submitted plans, although I understand its name has now been changed to The Laurels. I shall refer to the latter name in this decision.
4. The proposal involves a side extension and first floor to create a full two storey property occupying the majority of the width of the plot. A single storey rear extension and front canopy would be in addition to that. In design terms, the Council raises no objections, and having regard to the proposed form and detailing and noting the variety of architectural styles in the immediate area, I would concur with that view.
5. Turning to living conditions, I noted the long rear extension at the back of Fairview and the substantial detached outbuilding beyond that along the rear common boundary. The proposal would have one en suite window only in the

elevation facing Fairview and I am satisfied that there would be no adverse impact on the living conditions of the occupiers of that property.

6. With regard to No 38 Ongar Road, the majority of the building depth of Deer View is set back to the rear of No 38 and in close proximity to the common boundary. At my site visit, I took the opportunity to inspect the relationship of the two properties from within the rear garden of No 38. I also noted the limited depth of garden which No 38 has and which is already enclosed to some extent by Deer View and boundary with The Laurels to its rear. Although there is a garage to No 38 which provides some separation between the main buildings, the formation of a full first floor side extension and large roof in such close proximity would in my opinion, create an undesirable and overbearing effect which would harm the enjoyment of the rear garden of No 38 by its occupiers.
7. I note that a sunlight study indicates there would only be limited loss of sunlight to the rear of No 38 in winter months. The officer report questioned the analysis used to arrive at that conclusion and I note that the Grounds of Appeal has not provided any additional clarification in that respect. Without that to provide some robust support to the sunlight issue, I also give it limited weight and find it hard to believe that a proposed building of such size adjacent to the southern boundary of No 38, would not have greater impact in terms of loss of sunlight to the rear of that property. This adds to my concerns.
8. The appellant refers to an appeal decision of an apparently similar case in South Benfleet¹ where the Inspector allowed the appeal and found that the appeal scheme would not have an excessively overbearing effect on the adjoining property. Such cases depend very much on individual site and building relationships which will clearly vary from site to site. I have reached my findings based on the individual circumstances of this case and therefore I attach little weight to an appeal decision on a different site and with different site relationships.
9. With regard to The Laurels to the north west, the property currently enjoys privacy from adjoining properties by virtue of Deer View currently being a bungalow, and there being obscured glazing at first floor level in the rear of No 38 and its two neighbours, Nos 34-36 Ongar Road. I presume this was required at the time of construction to protect the amenities of the occupiers of The Laurels. The proposed extension would be approximately 20 metres from the corner of The Laurels and would introduce a first floor bedroom window which would overlook a dining and kitchen window of The Laurels and also its frontage area, albeit somewhat obliquely.
10. Whilst I note the appellant's reference to the distance being commensurate with general back to back distances for urban situations as recommended in the Essex Design Guide, it would nevertheless reduce the level of privacy currently enjoyed by the occupiers of The Laurels and in my view would be harmful as a result. The Grounds of Appeal referred to the intention to provide screening along the boundary, and indeed I noted that trees have been planted along that boundary when I visited the site. However, I do not consider they would overcome the concerns about overlooking and loss of general privacy that I have referred to.

¹ Appeal reference 3280738

11. Drawing the above together, the proposed development would harm the living conditions of the occupiers of No 38 Ongar Road and The Laurels, for the reasons set out. It would therefore be contrary to Policy BE14 of the Brentwood Local Plan 2016-2033 in that it would not safeguard the living conditions of adjacent residents.
12. Accordingly, the appeal should be dismissed.

Kim Bennett

INSPECTOR