



Appeal Decision

Site visit made on 7 December 2022

by J Wellstead BA (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Appeal Ref: APP/H1515/W/22/3301164

17-19 Byron Road, Essex, Hutton CM13 2SA

- 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 Davies against Brentwood Borough Council.
 - The application Ref 22/00230/FUL, dated 9 February 2022, was refused by notice dated 8 April 2022.
 - The development proposed is the erection of two replacement dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a revised plan 20-085-PL-04A as part of the appeal for existing and proposed roof layouts. In considering whether to accept these amended plans, I have had regard to the '*Wheatcroft Principles*'. That is to say, if I were to accept the amended plans, would my doing so deprive those who should have been consulted over the changed development the opportunity of such consultation.
3. In this case, the Council have reviewed the amended plan and are satisfied it addresses the third reason for refusal. Consequently, I have no reason to disagree with the Council's assessment, and it is in my view that to accept the amended plan would not prejudice the interests of third parties. I have therefore proceeded to determine the appeal on the basis of the amended plan. As such, the third reason for refusal falls away.

Main Issues

4. Therefore, having regard to the above the remaining main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide acceptable living conditions for future occupants, with particular regard to outlook; and
 - The effect of the proposal on the living conditions of the existing occupiers of No.15 and No.21 Byron Road.

Reasons

Character and appearance

5. The appeal site is located within an existing suburban residential area and is in use as a drive and car parking to the host properties at No.17 and No.19 Byron

Road, which are bungalows with garages. The residential properties in the surrounding area are a mix of two-storey semi-detached and detached dwellings as well as bungalows and bungalow chalets, which are set back from the road behind front gardens and driveways.

6. The appeal site is bounded by fencing, hedging and adjacent neighbouring properties. There are a number of small, ancillary domestic buildings within the site. The site sits within a row of bungalow and chalet houses that are predominantly similar in style and design, featuring hipped roofs and gable fronts. This uniformity of design makes a positive contribution to the character and appearance of the area with clearly defined, uniform building lines along Byron Road. A minority of these properties feature converted attic space, dormers and velux windows.
7. The proposed dwellings would be broadly aligned with the existing building line and would occupy areas towards the front of the plots, with gaps to the boundaries shared with neighbouring dwellings. However, the drawings indicate that Plots 1 and 2 are closely related to each other which results in emphasis of their unequal scale.
8. The proposed design of the dwellings has front gables and pitched roofs with the front dormers incorporated into the gables. This is not in harmony with the character and appearance of existing properties that are located on the southern side of Byron Road. Although some of these properties have first floor dormer windows, the different sized gables, ridge and eave heights of the proposed dwellings does not relate well to each other. Moreover, the appeal site is located at a higher point of the undulating road, giving these visual differences more prominence within the street scene.
9. The proposed dwellings would be in contrast with the adjacent bungalow and chalet houses in terms of design and mass. The design of the proposed dwellings along with their position close to the public highway would combine to make the development unduly prominent and visually intrusive in this section of the street scene that is otherwise characterised by relatively low-profile bungalows and chalet houses.
10. The proposed dormer windows on the front and rear elevations of both buildings generally match that of the predominant style of dormer windows on properties adjacent to the appeal site. However, the small front and rear dormer windows on plot 1 are constrained in size by the proposed gable roof line, resulting in these windows appearing cramped in size in comparison to the dormer windows proposed in plot 2.
11. Furthermore, the proposed dwellings have a substantially higher roof line and more depth in contrast to that of the adjacent properties which have lower pitched roofs and less depth. The roofs of the proposed dwellings would be higher with significantly larger projecting gable ends which would not be in keeping with the other properties along Byron Road. The proposed development would therefore unduly impact on the street scene and be clearly visible from within views from the existing adjacent properties.
12. Although the proposed development would be of a more contemporary design than adjacent properties with a finish in brickwork and render as well as composite slate roof tiles. The materials in the area are brick and slate, and there are also examples of existing properties that have wall render treatment

to the front. Given that the predominant external finish of the proposed houses is brick and slate matching others in the immediate area, there would be sufficient continuity in materials for the use of render on its walls to not be unacceptably harmful to the street scene. Nevertheless, this does not outweigh the harm I have already identified above.

13. I conclude that the proposed development harms the character and appearance of the area. It conflicts with Policy BE14: Creating Successful Places of the Brentwood Local Plan 2016-2033, Adopted March 2022. Policy BE14 seeks development proposals that have high design standards and refers to the Essex Design Guide 2018. This design guide states that dormer windows should be a minor incident in the roof plane. The proposed development also conflicts with the aims and objectives of the Framework which seeks to promote or reinforce local distinctiveness.

Living conditions – future occupants

14. The proposed development would comprise in Plot 1 – 4 bedrooms and in Plot 2 – 5 bedrooms. Both would also be furnished with a family bathroom, a lounge, kitchen/dining room, integral garage and utility room. Bedroom 3 on plot 1 and bedroom 5 in plot 2 would solely be served by velux rooflights. The use of rooflights would result in a significantly limited outlook and constrained views due to the rooflights being located above head height, resulting in an oppressive outlook for any future occupiers. The design would also result in poor levels of daylight reaching these bedrooms of which would negatively impact on the living conditions of future occupants of the dwellings.
15. I conclude that the proposed development harms the living conditions of future occupants due to the constrained outlook of future occupants. Consequently, it conflicts with Policy BE14 of the Brentwood Local Plan 2016-2033, Adopted March 2022 which seeks to ensure new development safeguards the living conditions of future occupants.

Living conditions – existing neighbours

16. Although the development seeks to provide gaps to the boundaries comparable with its surroundings. The scale of the proposed development would extend across the majority of the width of the appeal site and the side elevations of both plots would be in close proximity with the shared boundaries with No.15 and No.21. I accept that the proposed dwellings would not interject any 45-degree line of site from the rear facing windows of those neighbouring properties, but I consider that the proposal would still result in an overbearing effect due to the proximity of the side elevations, the tall height of the eaves and the depth of the proposed development.
17. I therefore conclude that the proposed development in respect of its form and scale of development would be harmful to the living conditions of No.15 and No.21 Byron Road. Consequently, it conflicts with Policy BE14 of the Brentwood Local Plan 2016-2033, Adopted March 2022, which seeks to ensure new development safeguards the living conditions of adjacent residents. It also conflicts with the policies of the Framework which seek to achieve well-designed places.

Other Matters

18. I note that the appellant has referred to the General Permitted Development Order, and that dwellings can achieve significant height through the Prior Approval process. However, I have no evidence to suggest that the appellant would pursue this, and the proposal before me is for the demolition and erection of two new dwellings, and not to extend an existing dwelling. I therefore have given this matter no weight.
19. The appellant states that the Council's five-year housing supply is identified as below the minimum requirement. However, following the adoption of the Brentwood Local Plan 2016-2033, the Council state that they are able to demonstrate a five-year supply of deliverable housing sites. The Council's current housing land supply position has not been disputed by the appellant. Consequently, the presumption in favour of sustainable development contained in paragraph 11(d) of the Framework is not engaged.
20. The Council's statement refers to an appeal decision¹ for the erection of roof extensions and porch at another site in Brentwood. However, I do not have the full details of this scheme so cannot be sure that it is directly comparable to the appeal proposal. In any event, I have dealt with the proposal on the basis of the evidence before me, and my site observations.
21. I am aware that local residents have expressed additional concerns about the proximity of building lines, loss of privacy and overlooking. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.

Conclusion

22. The proposal would conflict with the development plan taken as a whole, and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Thus, the appeal is dismissed.

J Wellstead

INSPECTOR

¹ APP/H1515/D/21/3283157