



Appeal Decision

Site visit made on 20 February 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2023

Appeal Ref: APP/H1515/W/22/3306978

17 Junction Road, Warley CM14 5JH

- 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 Darren Fowler, Construction Management DF (London) Ltd, against the decision of Brentwood Borough Council.
 - The application Ref 22/00709/FUL, dated 21 February 2022, was refused by notice dated 8 July 2022.
 - The development proposed is development to the land r/o 17-19 Junction Road with two new high quality single storey residential dwellings with associated amenity space, landscaping and other visual improvements.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the site address set out above, which is taken from the application form, it is clear from the evidence submitted by the parties and the description of development above, that the appeal site is land rear of 17-19 Junction Road. As such, I am satisfied that assessing the appeal on this basis would cause no prejudice to any party.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of the occupiers of Nos 15, 17, 19 and 21 Junction Road, with particular regard to outlook, and the potential for noise and disturbance, and
 - whether the proposal would provide adequate living conditions for future occupiers of the proposed dwellings, with particular regard to the amount of outdoor amenity space, outlook and sunlight.

Reasons

Character and appearance

4. The appeal property is a generous parcel of land that is located behind a two storey building containing flats, that fronts on to Junction Road within an area that is residential in character.

5. This part of Junction Road is generally defined by rows of two storey buildings of varying architectural styles, but with pitched sloping roofs, that are set back from the road by short distances, mostly behind frontage car parking spaces, and on discernibly consistent building lines.
6. The gardens at the rear of the frontage dwellings are mostly long and narrow, contributing to a spacious garden environment. Although many are occupied by garden buildings these buildings are modestly sized and they do not detract from the spaciousness of the garden environment. Furthermore, the generally narrow spacings between buildings fronting the road, serve to limit the extent of any views across these rear gardens and of the garden buildings from the road.
7. The notable exception to the prevailing pattern of development in the locality is the pair of two storey semi-detached dwellings known as Nos 21 and 23 Junction Road (Nos 21/23), which are located immediately to the south of the appeal site. Despite fronting on to Junction Road, this building is set much further back from the road than the other buildings in the row, and behind small front garage buildings and planting.
8. Although this building is readily visible in private views from nearby gardens, public views of it are limited to relatively long distance views through the relatively narrow gap in the built frontage between the appeal property and No 25. Even then, the frontage garages and the planting provide substantial screening of this building, particularly when the non-evergreen species are in leaf. The small garage buildings to the front of Nos 21/23, have little visual impact in both public and private views.
9. Consequently, despite the varied architectural styles of the buildings fronting Junction Road, and the anomalous position of the building containing Nos 21/23, I find that development on this part of Junction Road is generally characterised by a distinctively strong and consistently linear pattern of two storey buildings fronting the road, with a spacious garden environment at the rear.
10. The appeal proposal is to erect two single storey dwellings (labelled House 1 and House 2 on the drawings) on the subdivided plot to the rear of Nos 17-19. The proposed dwellings would be served by the existing access that extends through the gap between the frontage buildings, with communal outdoor space and private outdoor amenity space (gardens).
11. The proposed dwellings would be positioned to the side of the building at Nos 21/23, and thus would be set well back from Junction Road and not readily visible from the public realm. However, the building at Nos 21/23 does not, either alone or in combination with the small single storey garden buildings in the area, form a noticeable secondary building line to that alongside Junction Road. Instead, the building at Nos 21/23, despite its predominantly two storey height, has a modest footprint and is seen as an individual building situated within the otherwise relatively spacious and green environment of the secluded garden scene that exists behind the buildings fronting the nearby roads.
12. In contrast, the proposed dwellings would cover a significant area of the overall plot. With relatively little space between them and with two of their outer walls set on the boundaries with existing nearby properties, the proposed dwellings would be uncomfortably cramped within the plot.

13. In views from nearby gardens, the scale and appearance of the proposed dwellings, spread across the appeal site, would have an urbanising effect that would erode the generally spacious garden scene. As such, they would be incongruous in the context of the prevailing character and appearance of the area of buildings set on discernible buildings lines fronting the road with spacious gardens at the rear. Their flat roofed designs would not be reflective of the pitched roofed buildings in the locality, adding to their incongruity.
14. Given the scale of the proposed development and the area of land covered by it, the existing trees and vegetation growing in the nearby gardens would not be effective in hiding the incongruity of the proposed dwellings in views from nearby properties.
15. I acknowledge that the proposed development would not be readily visible from the public realm, however that does not make its design, appearance and effect on the character and appearance of the area acceptable. There is nothing in the relatively recently adopted Brentwood Local Plan 2016-2033 (Adopted March 2022) (the BLP), or national policy that confines such considerations solely to the effects on views from a vantage point accessible to the public at large.
16. I note that there are single storey dwellings positioned in a backland location at the rear of Nos 30 and 38 Crescent Road. However, they are not visible with the appeal site, and I have no details relating to any planning permissions for them, the policy context prevailing at the time, or the conditions that existed at those sites prior to development. Therefore, I cannot be sure that they are directly comparable to the appeal proposal and they do not alter my findings on this issue.
17. In the Surrey¹ appeal the Inspector described the area in that appeal as having an informal pattern of development and that the proposed new dwelling (in a tandem layout) would follow the established grain in that area. In contrast, the appeal proposal before me is located within an area that has a predominantly formal pattern of buildings fronting the road. Although the proposed dwellings in this appeal would be sited close to the building containing Nos 21/23, they would not follow the established grain of development in the area. As such, the Surrey appeal is different in context and character to the appeal before me and therefore of limited relevance to my considerations.
18. Without drawings showing the layout of the proposed development granted planning permission in the Cornwall appeal decision², I am unable to draw any meaningful comparisons with the appeal proposal before me. As such, it is also of limited relevance to my considerations in this appeal.
19. As the appeal site is not located within Green Belt, I find the decision of the Supreme Court³ to be of limited relevance to my judgement of the visual effects of the appeal development.
20. For these reasons, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. As such, the proposed development would conflict with Policies BE14, HP03 and NE07 of the

¹ APP/L3625/A/08/2078078

² APP/D0840/A/09/2117093

³ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

BLP, which seek development of a high design standard that responds positively and sympathetically to its context, and that development on gardens will only be permitted where the form, height and layout of development is appropriate to the surrounding pattern of development and the character of the area.

21. The appeal proposal would also conflict with Paragraph 130 in Chapter 12 of the National Planning Policy Framework (2021) (the Framework), which states that planning decisions should ensure that developments are visually attractive and sympathetic to local character, including the surrounding built environment, amongst other objectives.
22. Although the National Design Guide (Section C1), advises that it is appropriate to introduce elements that reflect modern living and include innovation and change, such as increased densities, the guidance continues that density should not harm the character and appearance of an area. In this respect, I find that there would be conflict with the National Design Guide, which advises that development should be well designed and respond positively to the features of its site and the surrounding context beyond the site boundary.

Living conditions of the occupiers of Nos 15, 17, 19 and 21

23. The relatively long and solid side wall of proposed House 1 would extend along the common boundary with No 15 for a considerable distance. The height and massing of this long side wall would be clearly visible at a very close distance from the rearmost part of the rear garden serving No 15. I saw that this part of the garden was relatively narrow and laid out partly as a hard surfaced patio area with seating, indicating its value to the living conditions of the occupiers.
24. Set at such a close distance to the boundary with No 15, I find that the height, length and solidity of the side wall of the proposed House 1, which would be markedly greater than that of the existing boundary fence, would have a dominant and overbearing effect on the outlook of the occupiers of No 15 when viewed from their garden, resulting in harm to their living conditions.
25. Proposed House 1 would be set back from the common boundary with No 21 by around 4m or so and separated from the boundary with Nos 17-19 by a considerably longer distance. Although proposed House 1 would be visible to varying extents in views from the windows and gardens serving Nos 17 to 21, given the separation distances between them and the relatively modest height of proposed House 1, I find that it would not have a dominant or overbearing effect on the outlook of the occupiers of these properties in views from their rooms and gardens.
26. The side wall of proposed House 2 would extend along the rear boundary of the rear garden area of the existing host property (Nos 17-19). Although the extent of this walling would be clearly visible to the occupiers in views from the rear garden and rear facing windows in Nos 17-19, the rear garden is relatively spacious in length and width. In this context, the relatively modest height of the side wall of House 1 would not have a dominant or overbearing effect on the outlook of the occupiers of these properties in views from their rooms and gardens.
27. The rear wall of proposed House 2 would extend alongside the largely blank two storey side gable wall of No 21 for most of its length. The parts of the wall

- of proposed House 2 that would continue beyond the front wall of No 21, would not be sufficiently high to have a dominant or overbearing effect on the outlook of the occupiers of No 21 in views from their front garden and front facing windows.
28. The set back distance of proposed House 2 from the garden of No 15, would avoid any overbearing or oppressive effects on the outlook of the occupiers of No 15 in views from their windows and garden.
29. In terms of the potential for noise and disturbance, the layout of the proposed development would focus the activities of future residents and visitors to the outdoor amenity areas located close to the rear garden of No 21, and to the communal amenity area alongside Nos 15 and 17-19.
30. Occupation of the proposed development would increase the intensity of the use of the relatively narrow access that runs between the flanking dwellings (No 15 and Nos 17-19) and alongside their side walls and garden boundaries. The movements of residents and visitors along the access would be in relatively close proximity to the 3 ground floor windows in the side wall of No 15, which appeared to serve a hall, kitchen and dining room, and therefore particularly noticeable to the occupiers of this property.
31. However, the intensity of the normal domestic activities associated with the proposed dwellings, including the relatively low frequency of movements of residents and visitors along the access, would not, given the scale of the development, be expected to cause levels of noise and disturbance that would harm the living conditions of neighbouring occupiers.
32. Although I have found that the proposed development would not harm the living conditions of the occupiers of Nos 17-21, a lack of harm in this regard is a neutral factor.
33. For these reasons I conclude that the side wall of proposed House 1, would have a dominant and overbearing effect on the occupiers of No 15, when seen from the rear garden of No 15, and this would harm the occupiers' living conditions. As such, the proposed development would conflict with Policies BE14 and NE07 of the BLP, which seek development of a high standard of design that safeguards the living conditions of adjacent residents, and that development on gardens will only be permitted where the amenity of existing residents is protected.

Living conditions of future occupiers

34. Whilst the private outdoor amenity areas serving the proposed dwellings would be less spacious than many in the locality, they would serve relatively small dwellings and would have a practical and usable rectangular shape. They would be sufficient to establish a modest outdoor seating area for relaxation and socialising, along with space for domestic purposes such as the drying of washing. They would be conveniently accessible to the living areas within the dwellings they would serve. Furthermore, the provision of cycle and bin storage within the communal outdoor amenity area, reduces the need for such storage within the private amenity spaces, allowing future residents to make full use of the space available.
35. Although the private outdoor amenity areas would be enclosed by a combination of the buildings they would serve and the boundary fencing with

surrounding properties, they would not, given the relatively low heights of the proposed dwellings, feel oppressively narrow or confined when used by future occupiers. Furthermore, the low height of the single storey rear wing of No 21, which is set away from the boundary with the appeal site, would allow views over it from the outdoor amenity areas of the proposed dwellings, contributing to a sense of spaciousness above the common boundary.

36. The evidence does not include a detailed sunlight assessment. However, despite the private outdoor amenity area of proposed House 2 being partly alongside the two storey core of the dwelling at Nos 21/23, the outdoor amenity areas for both proposed dwellings would have a southerly aspect. Therefore, sufficient sunlight would reach the private outdoor amenity areas of the proposed dwellings, over the rear projecting single storey wing of Nos 21/23, and during the afternoon as the sun moves through the sky from south to west. More so when the sun is highest in the sky during summer months.
37. When taken together, I conclude that the size, shape and location of the respective private outdoor amenity areas, would, relative to the small sizes of the proposed dwellings, and supplemented by the storage of cycles and bins within the communal amenity area, contribute to providing adequate living conditions for future occupiers of the proposed dwellings, with particular regard to the amount of outdoor amenity space, outlook and sunlight.
38. As such, the proposal would be consistent with Paragraph 130 of the Framework, which states that planning decisions should ensure that developments promote well-being and provide a high standard of amenity for occupiers, amongst other objectives.
39. The Council considers that the provision of outdoor amenity space below 50 sqm in area, as suggested within the Essex Design Guide, is in some cases sufficient, however a copy of this guidance is not before me, and therefore it is of limited relevance to my considerations.
40. Although the Council cited a conflict with Policy NE06 of the BLP, in its third reason for refusal, this policy relates to allotments and community food growing space, and therefore is of no relevance to this issue. In the same reason for refusal the Council also cited a conflict with Paragraph 127 of the Framework, however this paragraph relates to plan making and is of no relevance to this issue.

Other Matters

41. I acknowledge that the appeal site is overgrown and the proposed development would not harm heritage assets, areas that are subject to particular designations or protections, or trees considered worthy of retention. However, an absence of harm in these respects is neutral and weighs neither in favour or against the development. I am not aware of any issues pertaining to the condition of the appeal land and even if there were, I am not persuaded that the appeal proposal is the only means for them to be addressed.
42. In the context of the development plan, I have found that the proposal would conflict with Policies BE14, HP03 and NE07 of the BLP. These policies post-date the current version of the Framework and are consistent with the Framework's objectives of ensuring that development adds to the overall quality of an area, is sympathetic to local character and provides a high standard of amenity for

existing occupiers. Therefore, I give the appeal proposal's conflict with these policies substantial weight.

43. The socio-economic benefits of the appeal proposal are that it would make efficient use of land in a settlement where there is a range of services and facilities for residents, including public transport and a rail service to London, and where housing development is permitted, in principle, by the development plan. It would provide two new dwellings, which in turn would generate short term employment opportunities during construction and longer term benefits through the new residential households supporting the economy. The proposed green roofs are likely to have some limited environmental benefits in terms of biodiversity and reducing the quantity of rainfall run-off. However, these benefits would be small given the small scale of the development and they weigh only moderately in its favour.
44. For these reasons, I find that the appeal proposal would not accord with the development plan when considered as a whole.

Paragraph 11.d)ii. of the Framework

45. Although the Council contends that it can currently demonstrate a 5 year supply of deliverable housing sites, it has not provided any evidence to support this contention. The appellant's evidence includes a copy of the Council's 5 Year Housing Land Supply Statement showing a supply of 1.95 years as at 31 March 2021, and a copy of the Housing Delivery Test (HDT) results showing that 55% of the housing requirement was delivered over the previous three years to 2020. The appellant contends that the Council delivered 65% of its housing requirement over the 3 years to 2021.
46. On the evidence before me, I find there is a shortfall against the housing requirement for the area and in these circumstances paragraph 11.d)ii. of the Framework applies and permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
47. I have taken account of the Framework's objective of boosting housing supply, including through delivering housing on small and medium sized sites within existing settlements, that can be built-out relatively quickly. Although the proposed development would make efficient use of land for housing and make a small contribution to the housing supply in the area, I have already found that the economic, social and environmental benefits attributed to the proposed development would be small.
48. However, I find there would be conflict with the Framework in so far as the proposal would not add to the overall quality of an area, be sympathetic to local character or provide a high standard of amenity for existing occupiers.
49. Consequently, the appeal proposal's adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Accordingly, the proposed development does not benefit from the Framework's presumption in favour of sustainable development.

Conclusion

50. For the reasons given above, I conclude that the proposed development conflicts with the development plan as a whole. There are no material considerations of sufficient weight, including the provisions of the Framework, to outweigh this finding. Therefore, the decision should be made in accordance with the development plan and the appeal should be dismissed.

G Sylvester

INSPECTOR