
Appeal Decision

Site visit made on 21 September 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal Ref: APP/H1515/W/23/3314114

Standing Stone, Beehive Chase, Hook End, Essex CM15 0PA

- 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 Ms Nicola Scott against the decision of Brentwood Borough Council.
 - The application Ref 22/00767/FUL, dated 18 May 2022, was refused by notice dated 22 July 2022.
 - The development proposed is conversion of existing garage/studio apartment to a residential dwelling (Use Class C3), development of 2x residential dwellings, landscaping, car parking and other associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council draws attention to inconsistencies between the floor plans and elevations shown on the submitted drawings for each dwelling. For house numbers 2 and 3 the floor plans show a kitchen window, which is not shown on the relevant elevation in each case¹. Similarly, for the conversion of the garage building the west elevation appears to omit the first floor study window shown on the floor plan². As all these rooms have a single window I have taken this to be an omission from the elevations. The Council also indicates that the direction of each elevation is not conventionally labelled.
3. The appellant refers to submission of revised drawings to overcome the inconsistencies referred to, but I appear not to have been provided with these. Nonetheless, the intended layout of the dwellings from the submitted drawings as a whole is sufficiently clear for the purposes of assessing the proposal.

Main issues

4. The main issues are:
 - whether the location is suitable for the proposed residential development, including the effect on the character and appearance of the appeal site and surrounding area;

¹ Drawing refs PL11 A and PL12 A.

² Drawing ref PL07.

- the effect of the proposal on the living conditions of nearby residents and future occupiers of the proposed dwellings, with regard to outlook and privacy; and
- whether the proposal meets the requirements of development plan policies concerning environmental sustainability.

Reasons

Suitability of Location

5. The appeal property is a detached chalet bungalow in a residential road of mixed property types. The dwelling is set further back on its relatively large plot than neighbouring dwellings, with a driveway providing access from Beehive Chase. The detached garage building, to be converted to a dwelling, is positioned directly to the west of the host dwelling.
6. Policy MG03 of the Brentwood Local Plan 2016-2033 (2022) sets out the settlement hierarchy for the borough. Hook End is a level 4 Settlement in the Hierarchy, which is characterised as remote and small rural villages and hamlets, with poor public transport, limited or no shops, jobs and community facilities.
7. The supporting text indicates that development in level 4 Settlements will be encouraged only in brownfield locations, steered by the policies in the Plan³. The National Planning Policy Framework (the Framework) provides a definition of previously-developed or brownfield land, which excludes land in built-up areas such as residential gardens. As the proposal involves development in a residential garden surrounded by other dwellings, Policy MG03 does not provide support for the proposal.
8. I have had regard to the appellant's contention that the site does meet the definition of previously-developed land, particularly by comparison with an appeal decision where this matter was considered⁴. In that case the Inspector found that the site was developed land in a rural area. The Council has responded to this by providing an aerial photograph of the site in question and by any reasonable assessment the two sites are very different. The site in this earlier case is largely a field with extensive gaps between it and any other built development. By contrast, the appeal site is currently in use as a residential garden and is surrounded by development within a built-up area, albeit a small settlement. The fact that Hook End is classified as a level 4 Settlement in the development plan does not alter this fact. Therefore, while I have had regard to the earlier appeal decision, it is not directly comparable to the circumstances of this case.
9. Local Plan Policies NE07, BE14 and HP03, concerning respectively protecting land for gardens, creating successful places and residential density, all include the requirement that the form of development should be appropriate to the surrounding pattern of development and the character of the area.
10. The properties surrounding the appeal site are laid out on conventional linear plots. Those properties to the west of Standing Stone are closer to the road

³ Paragraph 4.20.

⁴ APP/T2215/A/12/2189200 dated 23 July 2015.

than those to the east, but the appeal property is set the furthest back on a plot that is substantially wider than is characteristic of the area. This provides an open and spacious character to the rear of the appeal property with no other examples of dwellings located in the back-to-back rear gardens in the surrounding area.

11. The view of the rear garden from the road frontage is currently obscured by the host dwelling and garage to the west. However, the appeal site rises away from the road and, consequently, the garden is on higher ground than the road frontage. The taller converted garage building together with the two new dwellings would be positioned on this higher ground and laid out with a staggered side building line. As a result, the three dwellings would be readily seen in relation to each other and the appeal property from the road frontage and properties opposite.
12. While the surrounding dwellings are relatively close to each other in terms of layout, they are in a conventional form fronting the road. The overall height, proximity and tandem position of the new dwellings would appear incongruous and uncharacteristic in this setting. Due to their proximity to each other and layout close to the front and rear boundaries they would also appear as a cramped form of overdevelopment of the site.
13. Therefore, for these reasons, I conclude that this would not be a suitable location for the proposed residential development due to the conflict with Policy MG03 of the Brentwood Local Plan 2016-2033. Moreover, the proposal would have a materially harmful effect on the character and appearance of the appeal site and surrounding area. As such, it is contrary to Policies NE07, BE14 and HP03 of the Local Plan, described above.

Living Conditions

14. Despite the staggered building line to the side of the three dwellings, the front elevations of the two new buildings would directly face the property in front at relative close proximity. Consequently, all the windows in the front elevation of each of the two new buildings would include obscured glass. I note that these windows serve either bathrooms, cloakrooms or habitable rooms with more than one window. Nonetheless, such extensive use of obscured glass is indicative of the cramped nature of the development, as found above, and will harmfully impinge on the living conditions of the occupiers of these dwellings by reducing their outlook. Moreover, the coverage of obscured glass across the whole front elevation will give these properties an incongruous appearance.
15. The distances between the west elevation of each property and the garden boundary would be below the 15 metre standard included in the Essex Design Guide, which is further evidence of the overdevelopment of the plot. Due to the height of the dwellings and the lack of certainty that sufficient screening could be provided in the long-term to the boundary, this could result in overlooking and loss of outlook to neighbouring properties.
16. The dwelling located closest to the northern rear boundary of the appeal site would be only around a metre from this boundary shared with the property opposite on Hay Green Lane. The occupiers of this dwelling currently have views from their rear windows and particularly their garden of the open aspect of Standing Stone's garden. However, the presence of a substantial two storey

dwelling over eight metres in height so close to the boundary would substantively alter the outlook from the neighbouring dwelling and garden. In particular, due to its proximity and height it would be a dominant and overbearing feature that would materially harm the occupiers' outlook from their property.

17. Accordingly, for the above reasons, I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of nearby residents and future occupiers of the proposed dwellings, with regard to outlook and privacy. Consequently, it is contrary to Policies NE07 and BE14 of the Brentwood Local Plan 2016-2033, insofar as they require development to safeguard the living conditions of future occupants and adjacent residents.

Environmental Sustainability

18. Policies BE01, BE02, BE03 and BE04 of the Local Plan concern sustainable construction and resource efficiency. The Council's concern is that compliance with these policies would be likely to require alterations to the form of development proposed and, therefore, adherence to these policy requirements could not be satisfactorily controlled by condition.
19. Policy BE01 concerns carbon reduction and renewable energy, while Policy BE03 concerns infrastructure networks for low carbon and renewable energy. Both policies appear to relate to major or non-residential development. Therefore, in the absence of further details, it is unclear how or whether they apply in this case for three dwellings. The requirements relating to water efficiency, waste water and sewage required by Policy BE02 could quite reasonably be controlled by condition.
20. Policy BE04 requires all development proposals to manage heat risks through design, layout, building orientation and use of appropriate materials. It is not clear from the information provided what shortcomings there are with regard to this policy and whether these could be addressed. However, given the conclusions with regard to the first two main issues, the outcome of this issue is not determinative for the appeal.

Other Matters

21. I have had regard to the representations made by a number of interested parties. These do not, however, raise any additional matters in relation to the main issues that would lead me to reach a different overall conclusion; or they raise matters that are outside the scope of this appeal.
22. Despite the appellant's view to the contrary, the Council has provided evidence in its appeal statement that it can demonstrate a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework⁵; and that its latest Housing Delivery Test figures are not substantially below the housing requirement. Moreover, as the current Local Plan was adopted in 2022 there is no basis to find the most important policies for this appeal out-of-date. Therefore, the presumption in favour of sustainable development included in the Framework is not engaged⁶.

⁵ Paragraph 74.

⁶ Paragraph 11d).

23. For the avoidance of doubt, however, even were the presumption to be engaged in this case, I have found that the proposal would cause material harm to the character and appearance of the appeal site and surrounding area; and would harmfully effect living conditions of nearby residents and future occupiers of the dwellings. As such, as well as it being contrary to the development plan, it is also contrary to the Framework's requirement that development is sympathetic to local character and should create places with a high standard of amenity for existing and future users⁷. I give significant weight to the conflict with the Framework in this regard. The benefits set out by the appellant are not of sufficient weight, either individually or as a whole, to overcome the extent of the conflict with the Framework. Therefore, I conclude that the adverse impacts of granting permission significantly and demonstrably outweigh the benefits.

Conclusion

24. I have found that the proposed development would have a materially harmful effect with regard to two of the three main issues in this appeal. As such, the proposal is contrary to the development plan and to the Framework. The presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

⁷ Paragraph 130.