



Appeal Decision

Site visit made on 14 June 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/H1515/W/23/3326676

Coppice Bungalow, School Road, Kelvedon Hatch, Essex CM15 0DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by DT HOMES UK LIMITED against the decision of Brentwood Borough Council.
 - The application Ref is 22/01008/FUL.
 - The development proposed is Demolition of existing dwelling. Erection of three dwellings. Creation of new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on 1) the character and appearance of the area, and 2) The Coppice Site of Specific Scientific Interest (SSSI) ancient and semi-natural woodland.

Reasons

Character and appearance

3. The appeal site is located on School Road where there are residential properties of various designs and sizes. The street has a distinct rural edge character, and this becomes clearly evident as you travel eastwards along School Road past the appeal site.
4. The appeal site comprises a detached bungalow with outbuilding that is set in a spacious plot surrounded by mature trees on its northern and eastern boundaries. The proposed development involves the demolition of the existing bungalow and the construction of three detached dwellings with new vehicular access.
5. Although School Road contains residential properties of various styles and sizes, in various plot sizes, the grain loosens as you travel eastwards towards and past the appeal site. Properties in this part of the street are large, detached dwellings set in generous plots, many of which contain mature trees and landscaping. This results in this part of the street having a clear sense of spaciousness that positively contributes to the character and appearance of the street.
6. The appeal site is one such property. The proposed development would result in its removal and replacement with three detached dwellings. There would also

be a parking area to the front that would contain six spaces and have an in and out access arrangement. Due to the size, shape, and scale of the dwellings and the resulting plot sizes, they would appear constricted and squeezed into the site when considered against the backdrop outlined above. There would be very little space between the dwellings which would result in a cramped layout. I acknowledge that there are properties in the street that are more tightly arranged than the existing layout of the appeal site and its surroundings. These are, however, located at another part of the street away from the appeal site, where I have identified that the pattern of development loosens and is markedly less compressed and more spacious in character.

7. The proposed parking arrangement would also be markedly out of character with the general make-up of the surrounding area, where most properties, have driveways and front gardens. The parking arrangement would create formalised marked bays which would, at times, be occupied by a total of six vehicles. This would be at odds with the general arrangement that exists in the immediate surroundings. The proposed arrangement would be a significantly more urbanised form of parking, out of character with the spacious, rural-edge nature of the appeal site and its surroundings.
8. I acknowledge that some properties have large hardstanding areas to the front. Whilst these are generally exceptions to the established form, they are also informally arranged, serving one property and of a different nature to the formal and communal arrangement of the proposed development.
9. The appellant has referred to the density of development that would exist being less than the policy requirement, however the policy stipulates that this is the case unless the character of the surrounding area suggests that such densities would be inappropriate. In this case, I do not find specific harm due to the density in isolation, which is primarily dictated due to the large depth of the plot. I therefore give the matter of density limited weight in the appeal.
10. The appellant has also referred to the depth of the properties being comparable to using permitted development rights to extend dwellings. Such rights only apply to existing dwellings, and although I would be able to remove such permitted development rights in exceptional circumstances, doing so would not overcome the harm I have identified above.
11. The proposed development would therefore cause significant harm to the character and appearance of the area. It would be contrary to Policies BE14 and NE07 of the Brentwood Local Plan (2022). These policies require, amongst other things, that proposals are required to meet high standards of design which responds positively and sympathetically to their context and builds upon existing strengths and characteristics; and that proposals for developments on existing gardens will only be permitted where the form, height and layout of the proposed development is appropriate to the surrounding pattern of development and the character of the area.
12. The proposed development would also be contrary to the requirement of the National Planning Policy Framework (2023) (the Framework) that planning decisions should ensure developments add to the overall quality of the area and are sympathetic to local character.

The Coppice SSSI ancient and semi-natural woodland

13. The appeal site is adjacent to an area of ancient and semi-natural woodland which is a designated Site of Special Scientific Interest (SSSI). Such a designation recognises the national significance of the site in terms of biodiversity.
14. Paragraph 186 of the Framework outlines that planning applications for development on land within or outside a Site of Special Scientific Interest, which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.
15. The same paragraph also sets out that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
16. Natural England's response to their consultation on the planning application was that the application should be considered against their standing advice. The standing advice outlines, amongst other things, that, notwithstanding any root protection zone required, a buffer zone of at least 15m between the development and the SSSI should be designed into the layout plan where possible, with the view to ensuring that the SSSI is buffered from any remaining possible impacts (such as increases in lighting and noise) and that there should be no loss or deterioration to an irreplaceable habitat.
17. The fact is that the appeal site, comprising an existing, albeit vacated, residential property with large rear garden abuts the SSSI ancient and semi-natural woodland. There are several mature trees close to the boundary with the woodland and these overhang the eastern boundary of the appeal site. Their rooting zones also extend to include part of the appeal site. In the existing development, the buffer zone includes the domestic garden, driveway, outbuildings and part of the bungalow. In the proposed development, the buffer zone would include the dwelling and rear garden of plot 3 and part of the dwelling and rear garden of plot 2. It would also include part of the driveway and parking area.
18. The appellant has submitted a Preliminary Ecological Appraisal and Preliminary Roost Assessment¹, a Tree Survey² and an Arboricultural Statement³. These documents consider the impact of the development on the SSSI and the trees within the ancient and semi-natural woodland.
19. The evidence shows the interchange of documents and the responses from the Council's ecologist and arboriculturist who concludes that on balance, the extent of the incursion into the 15m buffer zone would not have a significant adverse effect on the ancient woodland considering the presence of the existing development immediately adjacent to the woodland boundary and the existing wooden buildings within the woodland itself. They considered that the proposed

¹ arbtech – Issue 1.1 – 20/02/23

² Ligna Consultancy – Document Ref P2096-TS01 V2 – 14/07/2022

³ Ligna Consultancy – 20 February 2023

development would not have significant effects beyond that already experienced.

20. Subject to the imposition of a series of conditions, mitigation and enhancement measures, the Council's ecologist and arboriculturist raised no objection to the proposed development.
21. Given the existing land use and its physical form which includes development, namely outbuildings, driveways and part of the existing dwelling, being within the buffer zone, I consider that the proposal would not have an adverse impact on the integrity of the SSSI. The activity within the buffer would not be substantially different in scale or nature to the current arrangement and would not result in an adverse impact.
22. The submitted reports show how the development can be undertaken without causing harm to the trees within the ancient and semi-natural woodland and this is corroborated by the Council's ecologist and arboriculturist. The development would also provide the opportunity for ecological enhancement and landscape management within the buffer zone and the remainder of the sites. These matters could have been secured by condition were the appeal to have been allowed.
23. I therefore conclude that based on the above, the proposed development would not have an adverse impact on the Coppice SSSI ancient and semi-natural woodland. It would therefore comply with Policies BE14 and NE01 of the Brentwood Local Plan (2022) which require, amongst other things, that proposals integrate and enhance the natural environment and that developments that have an adverse effect on a SSSI will not be permitted.
24. The proposed development would also comply with the requirements of the Framework as set out above.

Other Matters

25. I appreciate that Council officers recommended approval of the application to the planning committee. However, it was within the committee's gift to make a decision on the application contrary to the officer recommendation, thus this consideration has had no bearing on my decision.
26. The appellant outlines how the proposed dwellings would meet the equivalent of Code for Sustainable Homes level 4 and that information on how the dwellings would achieve a higher level of energy and power efficiency, generate low carbon electricity and mitigate heat gain can be required by condition. Whilst this is a benefit of sorts, it is also a requirement of planning policy that homes are sustainably constructed and used. There is limited information to convince me that the sustainability aspect of the scheme is of such a high level to outweigh the harm I have identified. I therefore give this matter limited weight in the appeal.
27. I note, as the appellant sets out, that there would not be harm caused to highway safety or to the living conditions of occupants of nearby residential properties. These factors did not form part of the Council's reason for refusal and are not pertinent to the main issues. The absence of harm is therefore a neutral factor in the balance.

Planning Balance and Conclusion

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
29. The Government's objective as set out in the Framework is to support sustainable housing growth. The proposed development would result in a small increase in the Council's overall housing number and would also bring a small number of additional residents to the area who would contribute to the local economy. Collectively, I give these matters moderate weight in favour of the proposed development.
30. However, the harm that would be caused to the character and appearance of the area attracts significant weight that outweighs the benefits associated with the proposed development.
31. The proposed development would therefore conflict with the development plan and there are no identified other considerations that outweigh this conflict.
32. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR