
Appeal Decisions

Site visit made on 8 May 2019

by R J Maile BSc FRICS

an Inspector appointed by the Secretary of State

Decision date: 16 August 2019

Appeal A Ref: APP/C1950/W/18/3216378

Land adjacent to 26 Starling Lane, Cuffley, Hertfordshire, EN6 4JX.

- 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 Code 4 Ltd against the decision of Welwyn Hatfield Borough Council.
 - The application ref: 6/2018/0764/FULL, dated 19 March 2018, was refused by notice dated 21 May 2018.
 - The development proposed is the erection of a new detached dwelling.
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Appeal B Ref: APP/C1950/W/18/3216386

Land adjacent to 26 Starling Lane, Cuffley, Hertfordshire, EN6 4JX.

- 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 Code 4 Ltd against the decision of Welwyn Hatfield Borough Council.
 - The application ref: 6/2018/2258/FULL, dated 31 August 2018, was refused by notice dated 29 October 2018.
 - The development proposed is: Erection of an Over 55's bungalow.
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Decisions

Appeal A Ref: APP/C1950/W/18/3216378

1. The appeal is dismissed.

Appeal B Ref: APP/C1950/W/18/3216386

2. The appeal is dismissed.

Procedural Matter

3. Following determination of the applications the subject of these appeals, the Government has published an updated National Planning Policy Framework (February 2019). I shall proceed upon this basis.

Main Issues

4. The main issues in respect of these appeals are:

- a) The effect of the proposed development in each case on the character and appearance of the surrounding area.
- b) Whether the proposed vehicle access arrangements in respect of Appeal A are satisfactory to serve the development.
- c) Whether the lack of any on-site parking provision in respect of Appeal B is acceptable in this location.

Reasons

a) Effect upon character and appearance.

- 5. The appeal site comprises an irregular shaped parcel of former garden land, being located adjacent to 26 Starling Lane and extending behind the gardens of 66 and 68 Tolmers Road.
- 6. Starling Lane, Oak Lane and Tolmers Road are characterised by detached properties that are set within reasonably sized plots. All possess front garden areas, with the private dwellings being set back from the pavement in the case of Starling Lane/Tolmers Road and from the carriageway in the case of Oak Lane, thereby creating a spacious setting.
- 7. By contrast, development as proposed in each case would closely abut the public footpath that links Starling Lane and Oak Lane and to which the appeal site has a frontage. There would be little or no opportunity for meaningful landscaping. As a result, both the detached chalet house (Appeal A) and the bungalow (Appeal B) would appear as overbearing structures when viewed from the public footpath.
- 8. The appeal site has no proper road frontage. Given its location to the rear of properties in Tolmers Road, Oak Lane and adjacent to 26 Starling Lane, both proposals would comprise backland development that would be wholly at odds with the prevailing layout of the surrounding area.
- 9. The detached chalet house proposed by Appeal A would closely abut the rear garden of 5 Oak Lane, whilst the detached bungalow the subject of Appeal B would be located within a short distance only of the modest rear garden of 26 Starling Lane. In each case they would appear as random new dwellings unrelated to nearby housing and would represent cramped forms of development at odds with the established character of their surroundings.
- 10. For all of these reasons, I find in relation to the first main issue that in each case development as proposed would adversely impact upon the character and appearance of the surrounding area contrary to national policy at paragraph 127 of the Framework¹ and "saved" Policies D1 and D2 of the District Plan². These, respectively, require high standards of design and layout for all new development, which should be sympathetic to the surrounding built environment.
- 11. In arriving at my finding on this issue I have taken into account the nearby developments at 4a and 5a Oak Lane, to which my attention was directed and which I noted during my site visit. However, those developments more closely reflect the character and layout of their surroundings.

¹ The National Planning Policy Framework (February 2019).

² Welwyn Hatfield District Plan 2005.

b) Proposed vehicle access arrangements (Appeal A)

12. The sole means of access to the appeal site would be over a tarmac public footpath that connects the hammerhead of Starling Lane to the north with Oak Lane to the south. This metalled track is referred to by the Council as Starling Way. Although it is of a width that would permit vehicles to pass along it, the Council has erected two concrete bollards at either end to prevent its use by vehicular traffic.
13. It is proposed to remove the concrete bollards at the northern end of Starling Way and to install demountable bollards to enable access to the site to serve the two on-site parking spaces and turning area. The current scheme also provides for enhanced visibility splays at the junction of the access way, while the site layout has been altered so that vehicles may enter and leave the site in forward gear.
14. The suggestion to gain access over Starling Way was the subject of a previous application under ref: 6/2016/0669/FULL. That application was refused by the Council and the subsequent appeal dismissed (ref: APP/C1950/W/17/3166694 dated 12 June 2017). At the time of the earlier application Starling Way was not classified as a public footpath, such that the scheme did not elicit an objection from the Highway Authority. However, following the appeal decision the footpath has been recorded on the Definitive Map as Northaw and Cuffley Public Footpath No. 18.
15. The County Council's Transport Department has recommended refusal of the application, given that no easement has been granted to permit vehicles to cross the public footpath. As such, there is no lawful vehicular access to the site.
16. I noted during my site visit that there is a bend in Starling Way close to the access point which has the effect of reducing visibility to the north. Given the narrow width of the footpath and the distance to be travelled to reach the hammerhead of Starling Lane, I have concluded that the proposed means of vehicular access would unacceptably compromise the safety of pedestrians using the public footpath.
17. In the event of demountable bollards being erected there is no mechanism to ensure that these would be raised when access to or from the site was not required. Furthermore, the provision of speed humps as suggested would not enhance the intervisibility between vehicles and pedestrians. The use of such humps would also represent a hazard to regular users of the public footpath, which has a flat tarmac surface.
18. I therefore find upon the second main issue that the proposed vehicle access arrangements would give rise to unacceptable conflict between pedestrians using Starling Way and vehicles entering and leaving the site. As such, the development would be contrary to national policy at paragraph 110 of the Framework that requires proposals to minimise the scope for conflict between pedestrians, cyclists and vehicles and "saved" Policy M5 of the District Plan, which states that development which would prejudice convenient and safe pedestrian movement will be refused.

c) Lack of on-site parking provision (Appeal B)

19. In an attempt to overcome the second reason for refusal in respect of earlier schemes for the development of the appeal site the appellant has sought

- planning permission for a bungalow having pedestrian access only and with no associated on-site parking provision. I have noted that the application was accompanied by a Section 106 Unilateral Undertaking, which covenants not to permit the site to be occupied by any person under the age of 55 years or to permit any registered vehicle to be used or kept on the site.
20. There may be circumstances where car-free housing is acceptable, usually in sustainable locations close to transport and shopping facilities. That is not the case here, the appeal site being somewhat isolated from Cuffley centre and local travel facilities.
21. I agree with certain of the objectors to the scheme that in such circumstances any occupants of the bungalow would be likely to require their own means of transport. As such, the failure to provide for any off-street parking at the appeal site could give rise to additional demands for on-street parking, both by occupiers of and visitors to the proposed dwelling. In this regard, it is relevant that the availability of on-street parking is restricted in the vicinity of the appeal site within both Starling Lane and Oak Lane. This factor further confirms my conclusion that the provision of car-free accommodation within this location is impracticable.
22. I am also concerned that pedestrian only access to any dwelling on the appeal site would be problematic in facilitating the efficient delivery of goods and access by both service and emergency vehicles, given the need to traverse the public footpath for a distance of 35m to the hammerhead of Starling Lane. In particular, this could have implications for the health and safety of occupiers of the dwelling in the event of a fire or medical emergency.
23. I have therefore found upon the third main issue that the lack of any on-site parking provision would not be acceptable in this location and that development as proposed would conflict with the aims of national policy at paragraphs 108 and 110 of the Framework.

Conclusion

24. For the reasons given above, I conclude that both appeals should be dismissed.

R. J. Maile

INSPECTOR