



Appeal Decision

Site visit made on 8 September 2020

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2020

Appeal Ref: APP/C1570/W/20/3252096

Chadam House, Parkland Place, Newport CB11 3RH

- 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 & Mrs CS Draper against the decision of Uttlesford District Council.
 - The application Ref UTT/19/2976/FUL, dated 1 December 2019, was refused by notice dated 4 February 2020.
 - The development proposed is the erection of 2no. dwellings and garages and the re-positioning and redesign of Chadam House garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no. dwellings and garages and the re-positioning and redesign of Chadam House garage at Chadam House, Parkland Place, Newport CB11 3RH in accordance with the terms of the application, Ref UTT/19/2976/FUL, dated 1 December 2019, subject to the conditions set out in the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Mr & Mrs CS Draper against Uttlesford District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Planning permission¹ has previously been granted for the erection of five dwellings on land to the rear of Meadow Bank and at Chadam House. Four of the five dwellings approved by that permission have been constructed but the fifth dwelling, located to the rear of Chadam House, has not yet been built.
4. There is some disagreement between the parties as to whether there is an extant permission for a fifth dwelling on plot 5. The previously approved scheme¹ approved a fifth dwelling on plot 5, but that dwelling and the plot it would lie within (also named plot 5) are in different positions to the dwelling and plot 5 proposed in this instance. That does not alter the fact that planning permission was granted, and remains extant through the implementation of that permission, for a dwelling to the side / rear of Chadam House. This is a material consideration to which I give significant weight, the implications of which I consider below.

¹ LPA Ref No: UTT/17/0396/FUL

Main Issues

5. The main issues are the effects of the proposed development upon:
- The character and appearance of the host property and the surrounding area; and
 - The living conditions of occupiers of Chadam House and future occupiers of the proposed dwellings.

Reasons

Character and appearance

6. Chadam House is a large detached house located in the base of what is suggested to be a former quarry. To the sides and rear of the house and its immediate lawned garden, ground levels slope steeply up beyond a timber retaining wall to a flat area around the top of the slope. A timber fence runs around the perimeter of this elevated flat area, with the gardens of newly built houses beyond.
7. The approach to Chadam House is via a straight length of private road known as Parkland Place. Four of the five houses previously granted permission¹ are located to the right-hand side of this road blocking longer views of the appeal property. Together with garden enclosures of existing houses on the left, the alignment of the road and houses on both sides funnels views towards the open side garden and embankment sides to the side of the house. Whilst permission exists for a fifth dwelling, the approved plans² for that scheme show its location to be to the rear, and offset to the side of, Chadam House.
8. Despite the substantial visual and physical presence of the four new houses on the right-hand side of the road approaching the appeal property, Chadam House nonetheless retains a considerable degree of openness and spaciousness around it. The embankment sides and the plateau at the top of the embankment, together with the set-back fence-line and only distant glimpses of new housing beyond contribute to this sense of space, particularly when looking towards Chadam House on approach along the access drive. However, the open lawned area in the foreground sets the scene for the open surroundings to the side and rear of Chadam House and provides a counterbalance to the otherwise dense and close-knit grain of the substantial detached houses on Parkland Place.
9. The proposal would remove this sense of openness experienced on the approach to Chadam House. The two houses would flank the existing house, occupying much of the open space on either side. The relationship between the existing house and the two new ones would not be unlike the four detached houses on the right-hand side of the approach, opposing flank elevations separated driveways and side access to the rear gardens.
10. The Council are concerned that the proposal would amount to the over-development of the site, the proposed dwellings' significant built form occupying a large portion of the site resulting in a cramped form of development. Certainly, the proposed dwelling on plot 5 would block the open approach views to the side of Chadam House towards the embankment.

² Drwg No: DR0716 010 03

11. However, permission already exists for a further dwelling to the side and rear of Chadam House. The previously approved dwelling on plot 5 does not lie squarely within what is also referred to as plot 5 in the current appeal scheme. Although set to the rear of the appeal property, the approved dwelling's attached garage wing, which incorporates a substantial roof-structure with dormer window to provide bedroom accommodation at first floor level, would extend to the side, into this gap. Moreover, this element of the building be a sizeable incursion into the open aspect to the side of Chadam House.
12. However, the sense of openness is not solely derived from the existing space at the side of Chadam House. It also comes from the extensive lawned garden and embankment sides which encircle both sides and the rear of the house. The previously approved dwelling would be sited directly opposite a large portion of the existing rear elevation. In addition to compromising the spacious setting of the house at the side, it would do so to a greater degree at the rear. The openness to which I refer above would be materially and harmfully compromised as a consequence.
13. Clearly the proposed dwellings, which would flank Chadam House on either side, would partly erode the setting of the existing house through the loss of the open lawned areas on either side of it. However, the relationship building buildings would be entirely in keeping with that of the four recent dwellings on Parkland Place. The embankment sides would ensure that neither of the proposed dwellings would appear unduly cramped or crammed in to the site relative to the site boundaries, whilst the spacing between the two dwellings and Chadam House would be similar to that achieved between the houses on plots 1 – 4. It would not result in the form of cramped development that the Council fear, rather it would result in a form of development and relationship between buildings that reflects that which has been created along Parkland Place by the development four dwellings at plots 1 – 4.
14. At the rear, the appeal proposal would result in a more conventional relationship between existing and proposed garden areas, again akin to that created at plots 1 – 4. There is no dispute that the proposal would create (and retain in the case of Chadam House) garden areas in excess of those required by the Essex Design Guide. I accept that the proposal would require some remodelling of the existing embankment around the sides and rear of the plot. However, the existing arrangement demonstrates that the embankment can provide both a valuable visual backdrop and an effective landscaping element, as a compliment to the level garden areas at the rears of each of the houses, and I have no reason to suspect that it would not continue to do so for all three dwellings.
15. Thus, the proposal would largely retain the existing spacious garden directly to the rear of Chadam House, whilst also imbuing the proposed dwellings at plots 5 and 6 with generously sized gardens that have the potential to make creative use of the embankment sides around the site. Other than means of enclosure demarking each of the rear garden spaces, the proposal would retain a sense of openness at the rear of Chadam House. A degree of the current spaciousness would be lost to either side of Chadam House, but in the context of a frontage already heavily influenced by the substantial presence of the opposing gable elevation, this would not be fatal to the proposal.

16. Whilst the Council assessed the proposal as backland development, citing the provisions of Uttlesford Local Plan (ULP) policy H4 in their officer report, it is not referred to in either of the refusal reasons, nor is it directly referred to subsequently. ULP policies S3 and S7 refer to development limits and development within the countryside and, whilst the Council do not conclude on the site's location in relation to these policies, I saw that it is clearly surrounded by existing, recent and on-going residential development. I am also mindful of the permission that exists for a fifth dwelling (referred to throughout as plot 5) as part of an implemented scheme which includes the four houses on plots 1 to 4. The broad principle of residential development is not a matter of dispute and I have not been presented with any substantive or compelling evidence to lead me to a different conclusion.
17. Thus, for the reasons I have set out, I am satisfied that the proposed development, rather than being cramped and out of character, would instead be of a form, scale and layout that would respect the character and appearance of the surrounding area. This would be particularly so given the recent housing development with which it would be most closely seen and associated.
18. Although the proposed dwellings would reduce the openness and sense of space that is there at present, I am particularly mindful of the permission that exists for a fifth dwelling immediately to the rear of Chadam House. That dwelling, approved as part of the scheme which included four other dwellings to the south, is not in the same place as the house now proposed on plot 5. Whilst it raises similar issues in terms of scale, layout, character and appearance, spaciousness and its relationship with the existing Chadam House and other nearby properties I am satisfied that the proposed development would be compatible with the scale, form, character and layout of the surrounding area. There would be no harm to the character and appearance of the surrounding area and whilst it would result in an altered setting to Chadam House, I do not consider that this would be harmful or out of character with the evolving context in which the appeal site now lies. There would be no conflict with ULP policies S3, S7, GEN 2 of H4 in relation to design quality, character and appearance and compatibility with local context.

Living conditions

19. The existing detached garage building currently provides a substantial impediment to views between the front and side windows at Chadam House and the rear of plot 4. The removal of the garage to facilitate the construction and access of a new dwelling on plot 6 would potentially create and open up increased views towards the rear of the existing house at plot 4.
20. However, the removal of that structure would facilitate a re-sited garage, carport and bike storage building along the site's southern boundary with plot 4. Although sufficiently modest to avoid an unduly or harmfully overbearing impact on the rear and rear garden area of plot 4, the height of the pitched roof would prevent inter-visibility at ground floor levels, and provide a reasonable impediment from upper floor windows at Chadam House and the dwelling at plot 6, particularly given the angles between the two dwellings in question.
21. The lower levels of the appeal site and plot 4 relative to those at the top of the embankment mean that the newer housing above already enjoys a degree of elevated prominence over the houses below. However, the design and layout

- of the proposed residential development, and particularly the outbuilding described above, would ensure that the proposed development would not result in material or harmful additional overlooking of the dwelling at plot 4.
22. The Council relied upon the Essex Design Guide in relation to minimum separation and privacy distances, applying these guidelines to the relationship between the proposed dwelling at plot 6 and the existing house at plot 4. Although neither party cites exact distances between the two, I am satisfied that the intervening pitched roof garage / carport / cycle store building would provide adequate screening and mitigation of views between the two.
23. The flank elevations of two proposed dwellings would be largely blank, punctuated by utility rooms with a door and window at ground floor and en-suite bathroom windows at first floor level. There would inevitably be some inter-visibility between the two dwellings and Chadam House at the rear, particularly from first floor level across the neighbouring rear gardens. Such inter-visibility is not uncommon in a residential context, and the proposed layout and relationship would reflect that of plots 1 – 4 in any event.
24. Moreover, the intervening garage / carports would restrict and screen direct overlooking of the private sitting areas immediately to the rear of each property. These structures would act in a similar way to those associated with plots 1 – 4 in restricting longer views along the private rear faces of those properties. Surrounding properties are elevated above Chadam House, plots 1 – 4 and the dwellings proposed in the current appeal scheme. However, with regard to the dwellings within the appeal scheme, I am satisfied that the layout, scale and form of the proposed development, together with the prevailing landform, are such that the proposal would not give rise to unacceptable levels of overlooking or loss of privacy, or levels of such that would be more than would be reasonably expected within a residential context such as this.
25. For the reasons I have set out above, I am satisfied that the proposed development would not have a materially adverse effect on the reasonable occupation or enjoyment of neighbouring residential properties, with particular regard to privacy and overlooking. There would therefore be no conflict with ULP policies GEN2 or H4 insofar as their provisions relate to living conditions and residential amenity. Whilst the conflict with the EDG's provisions regarding privacy has been cited by the Council, I am satisfied that there are design elements of the proposal that would ensure that it would not cause materially harmful overlooking or loss of privacy.

Conditions

26. I have considered the Council's suggested conditions in light of the advice in the Framework and Planning Practice Guidance. I have also considered the content of the appellants' comments on the Council's suggested conditions. I have amended the conditions only where necessary and in the interests of precision. Reference to condition numbers in the assessment below refers to the numbered conditions set out by the Council and commented upon by the appellants.
27. I agree that time limit (1) and plans (2) conditions are necessary in order to provide certainty, albeit that I have modified the plans conditions to specifically refer to the approved plans by drawing number. A landscaping condition is

both reasonable and necessary and I have therefore imposed such a condition. Whilst I have noted the appellants' comments regarding the suggested landscaping conditions, it is not clear as to what is meant by the 'standard landscaping condition'. I agree that conditions 3 and 4 both relate to landscaping and I see no harm in amalgamating them into one. Nor am I persuaded that the basic form of condition 3 is deficient, other than that the car parking layout is adequately demonstrated³ elsewhere and the relevant drawing referenced in the plans conditions. I have attached a landscaping condition accordingly.

28. Regardless of how the appeal site is referred to, conditions regarding ecological and biodiversity measures (7 and 8), including mitigation, are reasonable and necessary. I have therefore applied these conditions as suggested.
29. On the face of it, conditions 10 and 15 both appear to refer to construction method statements. Whilst the appellants are concerned that this amounts to duplication, the conditions seek to address and control different aspects of the construction process. Nevertheless, I see no harm in bringing them together as one condition and I am satisfied that neither party would be prejudiced by my doing so.
30. A condition regarding ground conditions and potential contamination (9) is reasonable and necessary, particularly given intervention into areas of the embankment around the perimeter of the site. Conditions regarding installation of electric vehicle charging points (11) and sustainable travel (14) are necessary in the interests of facilitating sustainable travel patterns of travel, whilst those requiring provision of cycle (13) and car parking facilities (12) prior to occupation are also necessary in the interests of encouraging sustainable travel patterns and in the interests of highway and pedestrian safety.
31. I have not imposed the suggested condition regarding compliance with the Building Regulations in respect of accessible dwellings (6) as this is a matter covered by other regulatory requirements. The Guidance advises that such conditions will not meet the test of necessity and I have omitted this condition as a consequence.
32. I have added a standard construction hours condition in the interests of living conditions of occupiers of neighbouring properties. I am satisfied that the provisions and requirements of this standard condition should not come as a surprise to either main party and neither would be prejudiced by its reasonable requirements.

Conclusion

33. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

³ Drwg No: 008 Rev 2 – Proposed Car Parking

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DR0319 001A; DR0319 002B; DR0319 003A; DR0319 004A; DR0319 005A; DR0319 006A; DR0319 007A; DR0319 008A Rev 2 and DR0319 009A.
- 3) Notwithstanding the details submitted, before development commences full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:
 - a) proposed finished levels;
 - b) means of enclosure;
 - c) vehicle and pedestrian access and circulation areas;
 - d) hard surfacing, other hard landscape features and materials;
 - e) existing trees, hedges or other soft features to be retained;
 - f) planting plans, including specifications of species, sizes, planting centres, number and percentage mix;
 - g) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;
 - h) details of siting and timing of all construction activities to avoid harm to all nature conservation features;
 - i) location of service runs; and
 - j) management and maintenance details.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority

- 4) Prior to the commencement of the development hereby approved details of the materials to be used in the construction of the buildings (including the proposed garages, carports and cycle store) shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials, unless otherwise agreed in writing by the local planning authority.
- 5) No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and shall provide for the following (i – v) all clear of the highway and (vi) in the interests of living conditions of occupiers of neighbouring properties:
 - i. Safe access into the site;
 - ii. The parking of vehicles of site operatives and visitors;
 - iii. Loading and unloading of plant and materials;
 - iv. Storage of plant and materials used in constructing the development;
 - v. Wheel and underbody washing facilities; and
 - vi. shall specify the provisions to be made for the control of noise and dust emanating from the site and shall be consistent with the best practicable means as set out in the Uttlesford Code of Development Practice.

- 6) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Prime Environment, November 2019), already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes due diligence for nesting birds, and the retention of part of the embankment and creation of a matrix of habitats containing nectar sources for invertebrates."
- 7) Prior to works above slab level, A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Impact Assessment (Prime Environment, November 2019), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.
- 8) If during any site investigation, excavation, engineering or construction works evidence of contamination is found when carrying out the approved development, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary to ensure that the site is made suitable for its end use, a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.
- 9) Demolition or construction works shall take place only between the hours of 08:00 and 18:00 on Monday to Friday, 08:00 to 12:00 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 10) Prior to first occupation of the dwelling, an electric car charging facility shall be installed at the property and retained as such unless the written consent of the local planning authority is given to any alteration.
- 11) Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the DWG no. 002 shall be provided and retained at all times for their intended purpose.
- 12) The cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.
- 13) Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council.

****end of schedule****