



Appeal Decision

Site visit made on 7 April 2021

by R Bartlett PGDIP URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2021

Appeal Ref: APP/C1570/W/20/3263081

Land rear of Chestnuts, London Road, Newport, CB11 3PP

- 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 Edward Bishop against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1603/FUL, dated 3 July 2020, was refused by notice dated 2 October 2020.
 - The development proposed is construction of a new dwelling and car port.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of a new dwelling and car port at Land rear of Chestnuts, London Road, Newport, CB11 3PP, in accordance with the terms of the application, Ref UTT/20/1603/FUL, dated 3 July 2020, subject to the conditions in the schedule attached to this decision letter.

Main Issue

2. The main issue is the effect of the development upon the living conditions of occupiers of neighbouring properties, with regard to outlook, light, noise and disturbance.

Reasons

3. The proposal relates to a substantial, two-storey, five bedroom, family home with a detached double car port. It would be situated on a vacant parcel of land directly to the south of the new two-storey dwelling known as Elysian. A further parcel of land, which does not form part of this appeal, separates the site from the three storey dwellings to the east, known as Iris Cottage and Allium.
4. Although the ground level of the site is higher than that of the adjacent dwellings, the submitted plans include existing and proposed sections, showing that the ground level would be reduced, by up to 1.2 metres in parts. This reduction of the ground level, together with the separation distances between dwellings, which is in excess of 50 metres for the dwellings to the east and in excess of 25 metres for the dwelling to the south, would prevent any loss of light. Whilst the outlook from neighbouring dwellings would be changed by the proposed development, change is not the same as harm. To my mind the proposed dwelling, which is almost identical to adjacent Elysian but handed and on slightly higher ground, would not be over bearing and would not result in an unreasonable degree of change that would be harmful to the living conditions

of adjacent residents. In reaching this view I have had regard to the previous appeal decision on the site for two dwellings but note that the single dwelling now proposed would be set at a lower level and would be further away from neighbouring properties than what was the case in the previously dismissed appeal.

5. The dwelling known as Willow Chase is located over 50 metres to the north east of the proposed new dwelling. Although it is on lower level ground than the appeal site, it is at an oblique angle to the proposed dwelling and it is screened by a conifer hedge, which according to the submitted site survey is 2.6 metres high. Even if this hedge was ever reduced in height or removed, it is my view that there would be sufficient distance between the existing and proposed dwellings to prevent any unreasonable level of harm to the outlook of residents of Willow Chase.
6. Access to the proposed dwelling would be via an existing private driveway, which passes the side elevations of the dwellings known as Chesterton House, Chestnuts and Elysian. None of these houses appear to have any primary windows facing the gravel access road and their rear gardens are screened by high fences. The additional traffic movement generated by one further house would be negligible. I note that the council's Environmental Health Officer has been consulted and only raises concern regarding traffic noise from the M11, which lies across the field to the west of the site. No concerns are raised by Environmental Health with regard to noise or dust generated by the increased use of the private access road.
7. I therefore conclude that the proposal would not harmfully affect the living conditions of occupiers of the adjacent dwellings and that there is no conflict with policies GEN2 and H4 of the Uttlesford Local Plan (2005)(ULP). These policies seek, amongst other things to ensure that new development would not have a materially adverse effect on the reasonable occupation and enjoyment of other nearby residential properties in terms of overlooking, overshadowing, being overbearing or due to disturbance from the access. I have not been referred to any specific part of the National Planning Policy Framework (the Framework) and I find no conflict with this, in so far as it relates to the council's reason for refusal.

Other matters

8. A number of other concerns have been raised by the Parish Council and local residents, which include the fact that the site lies outside of the village development boundary, effect upon the character and appearance of the countryside and concerns relating to potential impacts on local wildlife.
9. I acknowledge that the site is located outside of the development limit for Newport and consequently, in planning policy terms, it is defined as being in the countryside. Policy S7 of the ULP seeks to protect the countryside. I concur with the findings of the previous Inspector on this matter, that the proposal, particularly this reduced proposal for one dwelling rather than two, would not harm the character and appearance of the area, which comprises many examples of backland and tandem development. The character and appearance of the appeal site is not altered by findings relating to Policy S7 in other appeal decisions referred to by the Parish Council, which relate to entirely different sites and proposals.

10. The council can only demonstrate a 3.11 year supply of housing. Accordingly, the policies most relevant for the location of new housing are out of date. There continues to be no dispute that the site is in a sustainable location.
11. Reference is also made to an emerging Neighbourhood Plan however, this has not yet been adopted and it was not referred to in the council's reason for refusal or appeal statement. Whilst I acknowledge that there would be a degree of conflict with the emerging Neighbourhood Plan, given its current status and the lack of harm that myself, the previous Inspector and the council has found in terms of effect upon the character and appearance of the countryside, I have given this matter limited weight.
12. The previous Inspector and the council also found that the development would be acceptable in terms of biodiversity and there is no new evidence before me to suggest otherwise. Moreover the appeal currently before me relates to a development of half the size of that previously dismissed, leaving a much larger area of undeveloped land.
13. The adverse impacts on the living conditions of neighbours, which resulted in the dismissal of the previous appeal, have in my view been satisfactorily addressed in this amended scheme.

Conclusion

14. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

15. The council has suggested a number of conditions to which the appellant has agreed. I have considered these in line with the Framework and the Planning Practice Guidance (PPG) and altered them as necessary.
16. I have imposed conditions setting out the time limit for commencement of the development and listing the approved drawing numbers for the avoidance of doubt. Materials and landscaping details are necessary to ensure the development respects the character and appearance of the area. Whilst traffic noise from the M11 was not apparent at the time of my site visit, I am mindful of the fact that my visit was undertaken at around midday and at a time when traffic volumes were likely to be at a reduced level due to the ongoing pandemic. I have therefore imposed a condition to ensure that the new dwelling is constructed with appropriate noise reduction measures. For environmental reasons, I agree that conditions are necessary to control how any unexpected contamination would be dealt with and to ensure provision is made for electric vehicle charging.
17. A condition to ensure compliance with Building Regulations is not necessary as this is covered by other legislation. As there is ample space within the site for secure cycle storage, further details of this are not necessary. Whilst some disturbance is inevitable during the construction phase of any development, a single dwelling served by an existing access would be constructed relatively quickly and accordingly a construction management plan is unnecessary.

R Bartlett

INSPECTOR

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: NWA-14-001-40 Rev B, NWA-14-001-41 Rev B, NWA-14-001-42 Rev B, NWA-14-001-46 Rev B, NWA-14-001-47 Rev A, NWA-14-001-LOC_S4_E Rev A and NWA-14-001-LOC_S4_P Rev C.
- 3) No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place above slab level until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 7) The structure, glazing and ventilation specification of the dwelling hereby approved shall be designed to achieve the following environmental noise limits internally:

Bedrooms (23:00-07:00 hours) 30dB LAeq and 45dP L_{Amax}
Living Rooms (07:00-23:00 hours) 35dB LAeq

The sound attenuation work shall be completed before the dwelling is first occupied and shall be retained thereafter.
- 8) A minimum of one electric vehicle charging point shall be fully installed and operational on the site prior to the first occupation of the dwelling hereby approved and shall be thereafter retained at all times.