
Appeal Decisions

Site visit made on 12 April 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2021

Appeal A Ref: APP/D3830/W/20/3260708

Tamarind and land rear of Star Place, Copthorne Common Road, Copthorne RH10 3LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Arundale of Lyndale Enterprises (UK) Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/20/1484, dated 23 April 2020, was refused by notice dated 18 June 2020.
 - The development proposed is erection of five houses, with access to Copthorne Common Road.
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Appeal B Ref: APP/D3830/W/21/3268144

Tamarind and land rear of Star Place, Copthorne Common Road, Copthorne RH10 3LF

- 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 D Arundale of Lyndale Enterprises (UK) Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/20/4351, dated 16 November 2020, was refused by notice dated 27 January 2021.
 - The development proposed is erection of three dwellings, with access to Copthorne Common Road.
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Appeal C Ref: APP/D3830/W/21/3268145

Tamarind and land rear of Star Place, Copthorne Common Road, Copthorne RH10 3LF

- 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 D Arundale of Lyndale Enterprises (UK) Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/20/4345, dated 16 November 2020, was refused by notice dated 27 January 2021.
 - The development proposed is erection of two dwellings, with access to Copthorne Common Road.
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Decision

1. Appeals A, B and C are dismissed.

Preliminary Matters

2. As set out above there are three appeals at this address. Given that the nature of the proposals and the Council's reasons for refusal are similar in each case, I have dealt with all three proposed developments in this single decision letter.
3. Appeal A application was made in outline with approval being sought for access and layout. Matters relating to appearance, scale and landscaping have been reserved. I have dealt with appeal A on this basis.
4. The Council has confirmed that it has received a completed legal agreement and on the basis of this withdraws refusal reason 4 that applies only to Appeal A. I have dealt with Appeal A on this basis of refusal reason 4 having been withdrawn.
5. The appeal site has been subject to a previously refused planning permission and dismissed appeal for the demolition of residential dwelling and erection of 6 x residential dwellings with new parking spaces and associated works (appeal ref: APP/D3830/W/17/3192383). These proposals differ to that of the previously proposed scheme in that different numbers of dwellings are proposed in each case. Although I have had regard to that appeal, I have considered the appeals before me on their own merits.

Main Issues

6. The main issues in these cases are: -
 - a) Whether the site is an appropriate location for new dwellings having regard to the spatial strategy of the development plan and the effect of the proposed developments on the character and appearance of the area; and
 - b) Whether the future occupants would have reasonable access to services and facilities by means other than by private car.

Reasons

Location, character and appearance

7. The Mid Sussex District Plan 2018 (the District Plan) has defined its built-up area boundary. Policy DP12 of the District Plan indicates that development will be permitted in the countryside, defined as the area outside the built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and is necessary for agriculture or supported elsewhere in the Plan. In addition, Policies DP6 and DP15 of the District Plan set out criteria and/or exceptions pertaining to particular circumstances when residential development could be considered acceptable beyond the defined built-up area boundary.
8. The location of the appeal site is beyond the defined built-up area boundaries and the proposals for new residential development would not satisfy any of the criteria or exceptions. Therefore, the appeal site would not be an appropriate location for new dwellings, and this brings all three appeal proposals into conflict with the spatial strategy of the development plan.
9. With regard to character and appearance there is no clear pattern to the existing development along this part of Copthorne Common Road. The area is characterised by mostly residential development situated within spacious plots

and this gives a sense of loose knit spaciousness to the character of the area. Cottage Place, adjacent to the appeal site, comprises residential properties and a commercial vehicle bodyshop/rental business situated behind a petrol filling station that fronts onto Copthorne Common Road. Despite this collection of existing development, to which the proposed development would be similar in regard to layout, plots sizes and parking arrangement, this does not alter the fundamental semi-rural character of the development that predominantly characterises the area more generally.

10. The appeal site currently hosts a dwelling. Although there are detached outbuildings, the remainder of this large plot is open and undeveloped. The nature of the existing development at the appeal site reflects that of the predominant context of the area and is in keeping for this reason.
11. All three proposals, irrespective of the number of dwellings proposed in each case, would create two buildings behind Tamarind and occupy the existing undeveloped rear garden relating to Tamarind. These buildings, along with the large areas of hardsurfaced access and parking courtyards, would substantially urbanise the site. The intensification of development would not reflect that of the loose knit spaciousness of the development within the wider area. Furthermore, the developments would not have the same sense of space between and around the buildings. As such, the proposals would represent an overdevelopment of the site and a harmful urbanisation of this semi-rural location.
12. The appeal site relates to a residential garden that is surrounded by built development on three sides and is enclosed by vegetation around its boundaries. Whilst the proposal would not have a tangible impact upon open countryside, other existing developments that adjoin the site and boundary screening, even if enhanced, would not provide justification for an intensive urbanising development at this location.
13. The Council's third refusal reason also refers to the loss of established trees and vegetation to accommodate the developments. The proposals would make use of the existing access from Copthorne Common Road and would be accommodated within the site without impacting upon the existing vegetation around the site boundaries. I saw that that land to the rear of Tamarind was not vegetated other than by grass. It does not appear to me that significant trees or vegetation would be impacted as a result of the proposed developments.
14. The planning history indicates that there is an extant planning permission for the erection of a dwelling behind Tamarind and a planning permission for a dwelling to the rear of Star Place. Neither development has been implemented and the permission relating to the development to the rear of Star Place has lapsed. The layout of the proposals roughly reflect the layout of the extant and lapsed developments, as well as built coverage. The proposed dwelling at the rear of Star Place was permitted some time ago and was subject to a now superseded development plan. Those previous permissions do not set a binding precedent for other similar applications and do not indicate that permission should automatically be granted in this instance. The Council has clearly set out why it considers the proposals at hand to be unacceptable, having regard to relevant planning policy. As can be seen from my reasoning, this is a position that I would concur with.

15. I note that a dwelling can be erected at Evergreen. I do not consider that this urbanising development close by would substantially alter the character and appearance of the area to an extent that would justify the developments at the appeal site that are before me.
16. I have been referred to a scheme on the northern side of Copthorne Road for 75 houses. However, I have not been provided with any substantive details of that case. Therefore, I am unable to consider what similarities could be drawn from the planning considerations pertaining to that scheme to those that are before me.
17. For these reasons, I conclude that the site would not be an appropriate location for new dwellings having regard to the spatial strategy of the development plan and the proposed developments would be harmful to the character and appearance of the area. The proposals would, therefore, conflict with Policies DP6, DP12, DP15 and DP26 of the District Plan and Policies CNP1 and CNP2 of the draft Copthorne Neighbourhood Plan that seek, amongst other matters, development to protect, enhance, be sensitive to the countryside and to conform with specific criteria and/or exceptions. I have not found harm in respect of landscaping at the site; therefore, I do not consider the proposals would materially conflict with DP37 of the District Plan.

Access

18. A Sustainability Statement supports the planning applications. It identifies that there is a day-to-day convenience store, takeaway and pub/restaurant within very close walking distance of the site. There is a footpath/pavement all the way to the nearby village where services and facilities can be reached.
19. The convenience store is close by and provides a reasonable range of goods, a cashpoint and post box. However, it is extremely likely that future occupiers would seek out a wider range of services and facilities to provide for their day-to-day needs and the convenience store would act as a top-up store rather than act as the main shopping destination for future occupiers.
20. Although the takeaway is close by and the pub/restaurant is within a 5-minute walking distance, these would not provide for the day-to-day needs of occupiers. Walking to the nearby village is possible where there are a range of services and facilities and would be within a 26-minute walking distance. Nevertheless, the busy nature of the highway with fast moving traffic and narrowness of the pavements would make walking feel unsafe and an extremely unattractive option for this reason, particularly for elderly occupiers of the proposed developments or those with young children.
21. There are bus stops very close to the site with 9 services. These variously run 7 days a week and provide links to education, services, facilities, public transport links and Gatwick airport at a frequency of services around every 20 to 30 minutes. These links are relatively good for a rural location and would offer an alternative to private travel. However, bus travel limits the amount of goods one can carry and this does not offer a convenient option for catering for the future occupiers' day-to-day needs.
22. I acknowledge that other locations within defined settlements may have longer walking distances to village centres, local shops and bus stops and may not be

so well served as that of the appeal site. Whilst this may be so, that does not justify development at the appeal site.

23. The site is not isolated from other existing buildings, albeit in respect of accessibility to day-to-day services and facilities it is some distance from built-up areas where such needs are readily catered for. In all likelihood future occupiers would be heavily reliant on private travel to cater for their day-to-day needs. Click + collect/deliveries and food on-line shopping home deliveries would not overcome this as this would involve travel to compensate for occupiers not making trips for food shopping themselves.
24. The developments could incorporate electric charging points. This is a merit of the proposed schemes and would encourage future occupiers to make use of electric vehicles. However, this would not minimise the need for travel and not every occupier may embrace this low carbon travel option.
25. For these reasons, I conclude that the proposed developments would not minimise the need to travel and support sustainable transport methods. Therefore, the proposed developments would conflict with Policy DP21 of the District Plan. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable travel solutions will vary between urban and rural area, however it also encourages development to be focused on locations that limits the need for travel. This aligns with the aims of Policy DP21.

Other Matters

26. The Council advises that it can demonstrate 5-year supply of deliverable housing sites. The Council's monitoring shows that in December 2020 it had a 5.37-year supply of housing land. However, the appellant has highlighted that the Housing Delivery Test 2020 shows a measurement of 91% delivery which is a reduction from the previous year. Whilst this will trigger the Council to prepare an action plan to assess the causes of under delivery and identify actions to increase delivery in future years, this does not indicate a significant under-delivery or that there is a shortfall in the 5-year supply of deliverable housing sites. Although the proposal would contribute to the District's housing supply, a development of up to 5 houses at the site would not offer a significant boost to the supply of housing. This, therefore, holds little weight in favour of the proposal.
27. The site represents previously developed land. Notwithstanding this, the Annex 2 of the Framework makes it clear that it should not be assumed that the whole of a curtilage should be developed. The proposal would make effective use of the land and increase housing choice. However, this should not be at the expense of safeguarding and improving the environment or the setting aside of those policies that require development to be sympathetic to local character, the surrounding built environment and landscape setting.
28. Renewable energy, energy efficiency and water use reduction measures could be incorporated into the scheme. In respect of living conditions, the proposed development would be acceptable and there would be no harm caused to existing neighbouring occupiers' living conditions. Drainage and contamination could be sufficiently dealt with by suitably worded planning conditions. These are matters that would be required to be acceptable on their own planning merits, therefore they hold no weight in favour of the proposal.

Conclusion

29. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

Nicola Davies

INSPECTOR