
Appeal Decisions

Site visit made on 25 August 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal A - Ref: APP/C1570/W/20/3264161 27 Brewery Lane, Stansted CM24 8LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant technical details consent.
 - The appeal is made by Mr J Rich against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1181/TDC, dated 13 May 2020, was refused by notice dated 15 June 2020.
 - The development proposed is Technical Details Consent for 3 dwellings per Permission in Principle UTT/18/2155/PIP.
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Appeal B - Ref: APP/C1570/W/20/3264162 27 Brewery Lane, Stansted CM24 8LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant technical details consent.
 - The appeal is made by Mr J Rich & Mrs L Rich against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1939/TDC, dated 4 August 2020, was refused by notice dated 2 September 2020.
 - The development proposed is Technical Details Consent for 3 dwellings per Permission in principle UTT/18/2155/PIP.
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Decisions

1. Appeal A and Appeal B are dismissed.

Application for costs

2. In respect of Appeal A an application for costs was made by Mr J Rich against Uttlesford District Council. This application is the subject of a separate Decision.
3. In respect of Appeal B an application for costs was made by Mr J Rich and Mrs L Rich against Uttlesford District Council. This application is the subject of a separate Decision.

Procedural Matters

4. As set out above there are two appeals on this site but given the overall similarities of the schemes, I have dealt with them in a single decision letter. I have nevertheless considered each proposal on its own merits.
5. The proposals are for technical details consent (TDC) following the grant of permission in principle for residential development for a minimum of 2 dwellings and a maximum of 3 additional dwellings at the appeal site. The

Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle has established that the location, land use, and amount of development, given as a range, is suitable in principle. The TDCs that are the subject of these appeals can consider the remaining detailed matters but cannot reopen what has been agreed at the permission in principle stage. I have determined the appeals on that basis.

6. The Council's second reason for refusal for Appeal A concerned a failure of the application to adequately demonstrate that the proposal would not result in harm to protected species, with particular regard to bats. Despite the appellant's concern that the Council has not conceded this reason for refusal, my reading of the Council's evidence concludes the opposite. I am satisfied that the appellant's professionally prepared document "Update Preliminary Ecological Appraisal & Bat Report" dated June 2020 satisfactorily addresses the concerns raised, and that the Council's evidence indicates this is its position, taking into consideration the appellant's appeal evidence and its own findings in relation to that report when it was submitted in connection with a separate application (now the subject of Appeal B where impact on protected species did not form a reason for refusal). I have therefore proceeded on the basis that the Council's second reason for refusal for Appeal A has been addressed.
7. On 20 July 2021 a revised National Planning Policy Framework was issued. The main parties were given the opportunity to comment on the implications of the resulting changes for this appeal and I have taken into account any resulting submissions when making my decision. The references to 'the Framework', including any paragraph numbers, made within my decision are to this revised version.

Main Issue

8. The main issue in both Appeal A and Appeal B is the effect of the proposal on the character and appearance of the area.

Reasons

Site description

9. The site for both appeals comprises an irregular but roughly rectangular shaped parcel of land positioned on the north side of Brewery Lane, a residential street of properties set back from the road by front gardens and trees. It is a private street with no footpaths. The existing dwelling on the site forms part of a series of detached chalet bungalows set within wide spacious plots with generous gaps between properties. Brewery Lane rises up from High Lane to the east, with the properties on the north side, including the appeal property, being at a higher level and therefore more prominent than those on the south side.
10. Properties on the south side of Brewery Lane are mostly two storey detached houses on narrower plots with less space between them. To the rear of the appeal site is a gated housing development, Mont Place. Due to the sloping topography, the large, detached properties of Mont Place are prominent to the rear of the site and from High Lane. However, their position, well removed from the road frontage, means that they do not form an integral part of the Brewery Lane street scene.

11. Both proposals seek the replacement of the chalet bungalow with three substantial sized four bedroom, detached, two storey dwellings with basements.

Planning history

12. The appellants assert that planning permission granted for a two storey side extension with basement on the east side of the appeal property has been implemented and provides some justification for the acceptability of the scale of both appeal proposals. The Council has not disputed this matter and therefore I treat this permission as extant. The plot 3 dwelling for both appeals would be sited in a similar position within the site as this extension and the variances in terms of scale would not be significant. However, this comparison fails to give consideration to the overall scale of the development proposed in both appeals, which would be significantly greater than the existing property, even when taking into consideration what could be realised on the site were the extant permission to be completed. I therefore give this matter limited weight in my considerations.

Appeal A

13. The overtly contemporary design, incorporating split gable roofs and street facing balconies with glazed balustrades, amongst other features, would be radically different to the neighbouring buildings. Despite the proposal being considered by the Council to provide sufficient space around and between the dwellings, to comply with guidance set out in the Essex Design Guide (EDG), the manner in which the three dwellings would fill the site without sufficient separation from the side boundaries to allow for an individualised setting and context, would result in a development that would be out of keeping with its surroundings.
14. Although the existing dwelling and others in the street are not of any particular architectural interest, there is, nonetheless, a coherence of design of chalet bungalows set within spacious plots on this side of the street, that is not compromised by the taller development of Mont Place, which I do not consider forms part of the street scene of Brewery Lane, and does not therefore lend support for the scale of the appeal proposal.
15. I acknowledge that the design of the appeal buildings is not without merit and similarly designed buildings are provided as good design examples in both the EDG and the National Design Guide (NDG). I also accept that the general overall design of the buildings has been found to be acceptable elsewhere in the Council's district, including within a conservation area, where special attention must be given to the impact of development proposals on the character and appearance of such an area. However, it is unlikely that those cases were subject to the same contextual constraints as the case before me which must necessarily be considered on its own merits.
16. I further acknowledge the changes to design that have been made in order to address concerns of the Inspector in the previous appeal at the site¹. However, although the appellant states that plot one has moved significantly further away from No 25 Brewery Lane (No 25), there would be limited space either side of this proposed dwelling within its plot, and generally within the site,

¹ APP/C1570/W/17/3188236

which would be at odds with the spacious character that currently prevails. Despite the ridge height of the proposed dwellings being kept below the height of the ridgeline of No 25, the row of dwellings would, by virtue of their combined form and massing, be overly prominent and incongruous in the street scene. This prominence of scale would be exacerbated by the overhanging first floor levels, the open frontage and the visibility of the basement level of plot 3.

17. Consequently, I find that the Appeal A proposal would be at odds with the prevailing pattern of development in this part of Brewery Lane and would harmfully erode the generally spacious quality which positively contributes to the character and appearance of the area.
18. I therefore conclude that the Appeal A proposal would result in unacceptable harm to the character and appearance of the area. Thus, it would conflict with Policy GEN2 of the Uttlesford Local Plan 2005 (LP) which, amongst other matters, requires development to be compatible with the scale and layout of surrounding buildings. The proposal would also conflict with the design aims of the Framework.

Appeal B

19. The Appeal B proposal has sought to address the concerns raised by the Council with regard to the Appeal A proposal. In doing so, traditional gable roofs are proposed and there would be no balconies within the front elevations. The dwellings would have a modern appearance in contrast to the existing properties, but a number of traditional materials would be utilised which would be reflective of the surroundings.
20. Whilst a new and positive character can enhance the identity of an area the appeal scheme fails to do this. The more modern design of the buildings could be acceptable in this location; however, the layout and overall scale and massing of the proposed dwellings would be essentially the same as that of the Appeal A proposal. Despite maintaining ridgeline heights below that of No 25 and reducing the visibility of the basement level of plot 3, by hiding it behind a built-up earth bank and a cedar block retaining wall, the development would be overly dominant within the space, creating a concentrated proliferation of significant built form in an otherwise spacious part of Brewery Lane.
21. Although frontage hedgerow is shown to be retained, this is indicated to be at a height of 900 mm which would offer no practical screening of the proposed buildings. In any case, the purpose of planting and landscaping is to integrate development into its surroundings; it is not a means of hiding development that is otherwise unacceptable. Consequently, even if the existing hedge were to be retained at a greater height, as could be achieved by the imposition of a condition were permission to be granted, it would not mitigate the harm I have identified.
22. While four storey properties of Mont Place can be viewed from High Lane, these present as a standalone development. The site specific circumstances of Mont Place does not lend favour for the appeal proposal which is set within a different context.
23. Overall, I consider that the proposal would fail to respect the surrounding context beyond the site boundaries and would harmfully detract from the established spacious character of this part of Brewery Lane.

24. Consequently, I conclude that the Appeal B proposal would result in unacceptable harm to the character and appearance of the area. Thus, it would conflict with LP Policy GEN2 which, amongst other matters, requires development to be compatible with the scale and layout of surrounding buildings. The proposal would also conflict with the design aims of the Framework.

Other Matters

25. The NDG notes that well-designed places do not need to copy their surroundings in every way and that it is appropriate to introduce elements that reflect how we live today, to include innovation or change such as increased densities. The Framework also outlines that decisions should not prevent or discourage appropriate innovation or change such as increased densities. However, this encouragement is balanced and qualified alongside requirements seeking to ensure high quality design and development that respects and is sympathetic to local character. For the reasons set out above, I do not consider that either the Appeal A or Appeal B proposals achieve those aims and I do not find that the support for increased densities within the Framework and NDG offer sufficient justification for the harm that would be caused to the character and appearance of the area.
26. I note other concerns raised by third parties in both appeals, including in relation to privacy, highway safety and land stability. Given my findings in relation to the main issue in both appeals, I have not considered these matters further.
27. I have been referred to a planning permission granted in the locality which concerned the demolition of a bungalow and its replacement with modern, two storey dwellings. Whilst noting the similarities, that permission was for two dwellings on a site in a different albeit nearby location. The circumstances leading to that permission are not therefore directly comparable. Consequently, this matter attracts very limited weight in my considerations and does not outweigh the harm I have identified.
28. I note the frustration of the appellants with regard to pre-application support for several aspects of the appeal proposals which were subsequently found to be unacceptable. However, there is a level of subjectivity in such judgements and the PPG states² that pre-application advice cannot pre-empt the democratic decision making process or a particular outcome, in the event that a formal planning application is made. I have taken the evidence relating to this matter into account in making my decision, but it has not altered my conclusions.

Planning Balance

29. The appellants contend that LP Policy GEN2 is not compatible with the aims of the Framework. However, despite being negatively worded, I find that the Policy's requirement for development to be compatible with the scale, form, layout, appearance and materials of surrounding buildings, to be comparable with paragraph 130 of the Framework. This states, amongst other matters, that planning policies and decisions should ensure that developments are sympathetic to local character, including the surrounding built environment. I

² Paragraph: 011 Reference ID: 20-011-2014030 - Revision date: 06 03 2014

therefore afford Policy GEN2 significant weight in the determination of this appeal.

30. The appellants refer to an appeal decision³ where the Inspector found the LP to be "...now painfully out of date in terms of its purpose, its strategy, its content and its housing delivery policies. It does not meet the requirement for the Council to have an up-to-date plan and it is clearly not a strong foundation upon which to refuse planning permission." I do not disagree with the findings of that Inspector and note the conclusions about the Council's housing strategy and out of date policies. However, that case did not turn on the application of LP Policy GEN2 and does not, therefore, alter my own conclusions in respect of this Policy.
31. The Council cannot demonstrate a five year deliverable supply of housing land. Whilst the parties disagree on the level of shortfall it is clear that a significant deficit exists. In such cases, the provisions of paragraph 11 d) of the Framework are triggered and the presumption in favour of sustainable development applies.
32. Both the Appeal A and the Appeal B proposals would result in the net gain of two dwellings, utilising previously developed land in an accessible location. Both appeal proposals would accord with the extant permission in principle. The Framework recognises the important contribution that small and medium sized sites can contribute to meeting the housing requirement of an area. There would be an increase in the type of housing choice available to meet identified demand. The overall contribution to housing supply would be modest but meaningful. I afford these benefits modest weight commensurate with the quantum of development proposed.
33. The proposals would have economic benefits resulting from both the construction and subsequent occupation of the proposed dwellings and the support by future occupiers for services and facilities. There would be the opportunity to construct more energy efficient buildings. I attribute limited weight to these benefits because of the scale of development proposed in each case.
34. Although there may be aspects of the 10 characteristics of well-designed places as identified in the NDG, and other policies of the LP, that the proposals accord with, the absence of material harm is not a benefit that weighs in favour of the proposed developments. In seeking to make effective use of land the Framework makes clear that this should be balanced with safeguarding and improving the environment. Overall, the benefits of both Appeal A and Appeal B proposals are modest.
35. However, I have found that both Appeal A and Appeal B proposals would give rise to unacceptable harm to the character and appearance of the area, contrary to the requirements of the Framework for high quality design and development that is sympathetic to local character and adds to the overall quality of the area. This matter attracts significant weight.
36. Consequently, I find that the adverse impacts of the proposed development for both appeals would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. This is

³ APP/C1570/W/19/3242550

the case even when taking into account the appellants' worst-case scenario of 1.69 years deliverable housing land supply. It would not therefore benefit from the presumption in favour of sustainable development set out within the Framework. Appeal A and Appeal B proposals would be contrary to the development plan when it is read as a whole and this conflict is not outweighed by other material considerations including the Framework.

Conclusions

37. For the reasons given above, I conclude that Appeal A and Appeal B are dismissed.

S Tudhope

INSPECTOR