
Appeal Decision

Site Visit made on 17 August 2021

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/C1570/W/20/3264735

Koumala, Thornton Road, Little Canfield CM6 1SX

- 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 Rivertree Residential against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0830/FUL, dated 18 March 2020, was refused by notice dated 24 June 2020.
 - The development proposed is demolition of existing dwelling and annex, construction of 4no. dwellings with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Rivertree Residential against Uttlesford District Council. This application is the subject of a separate Decision

Preliminary Matters

3. I have considered two additional appeals¹ on this site which were submitted by a different appellant. I have therefore issued a separate decision for those appeals.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. I have considered the appeal in light of this revised document, having first given the parties an opportunity to comment on its content.

Main Issues

5. The main issues in this appeal are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of neighbouring occupants, with particular regard to outlook, privacy and disturbance; and
 - the living conditions of future occupants, with particular regard to privacy.

¹ Appeal references: APP/C1570/W/21/3267197 and APP/C1570/W/20/3265789

Reasons

Character and appearance

6. The appeal relates to a large, detached dormer bungalow known as Koumala. It is set within relatively generous and verdant grounds, which contains a large single storey outbuilding. Koumala is one of three detached bungalows in a short row served by a long access lane. To either side of these and to the rear is a modern estate with higher density housing. However, only Nos 7 and 8 of this estate are accessed via Thornton Road (I note that on some of the submitted plans, these dwellings are identified as Nos 10 and 11). Open countryside lies to the opposite side of the lane.
7. The proposal would result in two pairs of semi-detached dwellings. These would be accessed by a private drive off Thornton Road. They would be orientated perpendicular to the road, with their principal elevations facing the neighbouring bungalow known as White Clouds. They would have the appearance of large chalet bungalows, with living space in the roof.
8. The development would broadly maintain the building line with Evanston and White Clouds. However, unlike other housing accessed off Thornton Road, they would not face onto the road. The difference in orientation and tandem nature of the development would clearly be at odds with the pattern and grain of development in the immediate area.
9. The density of development would also increase substantially, with plot size and ratios of the dwellings significantly smaller than the existing bungalow or those to either side. While this might be more reflective of the more recently built housing around the site, it would still appear incongruous in this setting, which is clearly separate from the larger estate. The layout, access and nature of the development would also not allow any physical or visual integration with the estate.
10. In my view, these factors combine to ensure the proposal would appear as an incongruous and unduly cramped form of development that had been squeezed into a constrained site with little regard for the character of the immediate area. The preponderance of land given over to the access road and parking would only add to this impression.
11. The design of the dwellings would not reflect that of others in the immediate area. While there is some variety in design in the area, and the buildings would not be particularly tall, the large crown roofs and resulting squat and bulky appearance would exacerbate the unsympathetic and overly intensive nature of the overall development.
12. In conclusion on this matter, I find that the development would cause unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with Uttlesford Local Plan (ULP) (2005) Policy GEN2 which seeks, amongst other things, to ensure that development is compatible with the scale, form and layout of surrounding buildings. There would also be conflict with paragraph 130c of the Framework which seeks to ensure development is sympathetic to local character.

Living conditions – neighbours

13. The gardens of both White Clouds and Evanston can already be overlooked from dwellings to the side or rear. Overlooking from within the site would be possible from dormer windows, albeit at an oblique angle and a relatively low height. The proposal would clearly increase the scope for direct overlooking. The orientation of the dwellings to the rear of the site would mean front and rear windows facing directly into the rear gardens of neighbouring properties. Although the buildings would not be particularly tall, the potential for overlooking from upstairs windows would be likely to lead to an increase in the perception of being overlooked when in the garden.
14. This would be particularly the case for Evanston. While I note the configuration of dormers means there would be no window nearest to the rear of the property itself, there would still be scope for more direct views into the garden. With housing directly facing the garden on all three sides, this might give rise to an unwelcome sense of being observed. I do not consider that existing or proposed boundary treatments would provide satisfactory mitigation for the increased perception of being overlooked.
15. The principal elevations of the rear dwelling pair would look across the private drive and parking areas toward the rear garden of White Clouds. Although this separation might provide some relief, I nevertheless consider that it would not be sufficient to fully mitigate the perception of being more directly overlooked when in the garden.
16. I acknowledge that it is not unusual for there to be some overlooking of rear gardens in residential areas. Nevertheless, the siting of the dwellings to the rear of the plot would still create an unwelcome and unneighbourly relationship with neighbours on either side.
17. The private drive serving the four dwellings would pass by the full length of the common boundary with White Clouds. Visitor parking spaces would directly abut the boundary. Vehicles would generally be passing and manoeuvring much nearer to the side of the bungalow and further back into the site parallel with the rear garden, than at present. It would be reasonable to assume that the development would generate more trips and associated noise and disturbance than the existing dwelling. Moreover, vehicles would be passing by the rear of White Clouds, where it would be more unusual to experience noise from passing and manoeuvring vehicles. In my view, this would have a detrimental impact on the enjoyment of the garden by neighbours. This adds to my concerns about the relationship that would be created by the development.
18. Although I have not identified any harm to properties to the west of the site, the layout and scale of the development would still result in a cumulative detrimental impact on the living conditions of neighbouring occupants. Accordingly, there would be conflict with ULP policies GEN2 and H4 which seek, amongst other things, to ensure development does not have a materially adverse effect on neighbours' living conditions through loss of privacy or disturbance. There would also be conflict with paragraph 130f of the Framework which seeks a high standard of amenity for existing users.
19. The appellant has questioned the relevance of Policy H4 in this regard. However, part of the development is in a backland location and thus it is a

relevant policy. Even if this were not the case, it would not alter the conflict that exists with other policies.

Living conditions – future occupants

20. The garden of the dwelling on the rearmost unit would be overlooked from dwellings to the west. However, this area is already garden and it would be reasonable to assume that this relationship was considered acceptable when the newer dwellings were permitted. The relationship with Evanston would also be much the same as at present, with views of gardens potentially possible but at an oblique angle. As such, I am not persuaded that the subdivision of the space to accommodate additional dwellings would inevitably result in material harm through loss of privacy.
21. The dwellings to the front of the site would not be affected by overlooking owing to the distance and viewing angle of neighbouring dwellings. I am therefore satisfied that future occupants' living conditions would not be unduly harmed. In this regard, there would therefore be no conflict with ULP policies GEN2 or H4 which seek, amongst other things, to ensure living conditions are not harmed through a loss of privacy. There would also be no conflict with paragraph 130f of the Framework which seeks a high standard of amenity for future users.

Other Matters & Planning Balance

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that both forms of development would result in unacceptable harm to the character and appearance of the area and living conditions of neighbours. I attach very significant weight to these issues.
23. Neither party has specifically addressed the issue of whether the Council can demonstrate a 5-year supply of deliverable housing land in their evidence. The Council's officer report does however refer to the Council's 'lack of housing land supply'. If I were to infer this means the Council cannot demonstrate a 5-year supply, then paragraph 11d of the Framework states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
24. A net increase of three dwellings would add to the housing supply and constitute a tangible benefit of the development. It would also make more efficient use of the land than at present. The development would help to support nearby services and facilities and would provide temporary construction jobs. However, whatever the scale of any housing shortfall, a net gain of three additional dwellings is unlikely to have a significant impact on the overall housing supply or economy. The benefits are therefore limited in scale.
25. In my view, the adverse impacts of development would significantly and demonstrably outweigh the limited benefits of the development. Consequently, even if the Council are not able to demonstrate a 5-year supply, the proposal would not benefit from the presumption in favour of sustainable development as set out in the Framework.

26. The appellant has drawn my attention to other backland and windfall permissions that have been granted permission. However, the relevant policies allow for such development in certain circumstances. Those circumstances do not exist in this case. Moreover, I cannot be certain that these examples are comparable to the proposals before me. Accordingly, they have had no bearing on my decision.
27. I have had regard to the Council's delegated officer report in my decision. It is acceptable for the Council to have drawn my attention to this report in support of their case and there is nothing to suggest they could not expand on their decision notice or reason for refusal. The appellant had the opportunity to respond to anything raised in the report in their 'final comments'.
28. In conclusion, the proposal would conflict with the development plan when considered as a whole. There are no material considerations that would lead me to a decision in other than in accordance with the development plan in this case.

Conclusion

29. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR