
Appeal Decisions

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 A Ref: APP/C1570/W/21/3267197

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 Paul Mitchell & Co against the decision of Uttlesford District Council.
 - The application Ref UTT/20/2647/FUL, dated 14 October 2020, was refused by notice dated 8 December 2020.
 - The development proposed is demolition of existing house and annex, remove trees and shrubs. To erect 4no. dwellings with parking, access road, bin & bike stores, landscaping and boundary treatments.
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Appeal B Ref: APP/C1570/W/20/3265789

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 Paul Mitchell & Co against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1776/FUL, dated 7 August 2020, was refused by notice dated 12 October 2020.
 - The development proposed is demolition of the existing house and annex and erection of 4no. dwellings with parking, access road, bin and bike stores, landscaping and boundary treatments.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Applications for costs

3. Applications for costs were made by Paul Mitchell & Co against Uttlesford District Council. The applications are the subject of a separate linked Decision.

Preliminary Matters

4. I have also considered a third appeal on this site¹ that was submitted by a different appellant. I have therefore issued a separate decision for that appeal.
5. The main differences between Appeal A and Appeal B are in the height and design of the dwellings. The issues are similar for both and so unless specifically referred to, I have considered the two appeals together.

¹ Appeal reference: APP/C1570/W/20/3264735

6. 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

7. The main issues 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 and privacy;
 - the housing mix of the area and
 - the living conditions of future occupants, with particular regard to privacy.

Reasons

Character and appearance

8. 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.
9. Both developments would provide two pairs of 4-bedroom semi-detached dwellings. One pair would face Thornton Road, with the other sited to the rear, perpendicular to the lane and served by a private drive. The designs of both proposals are similar insofar as the dwellings would be linked at first floor level, with undercroft parking. The main difference between the proposals is that Appeal A would have a lower overall roof height.
10. The housing to the rear would introduce a form of backland development which is not seen elsewhere on Thornton Road. This is clearly at odds with the pattern and grain of development in the immediate area. The development would also break the current consistent building line of the three bungalows and bring development nearer to the roadside. Even having regard to the building line of Nos 7 and 8 and the layout of the estate to the side of White Clouds, these aspects of the layout, including the private drive and visitor parking, would appear unsympathetic to the character of area.
11. The proposals would also constitute a significant increase in the density of development on the site. This would not only be as a result of the increase in size and bulk of the built form, but also through the introduction of the private drive and visitor parking. Even if the overall density were similar to that of the nearby estate, this does not take account of the specific character of the site and its immediate surroundings. The three bungalows create a low-density pocket of development which is clearly separate to the estate. Moreover, the proposed access and layout would not allow the development to integrate with the estate either physically or visually.

12. In this context, both proposals would appear as incongruous and unduly cramped forms of development. The reduction in height of the buildings between Appeal B and Appeal A does not alter my conclusion in this regard. Similarly, the permitted increase to the height of Evanston does not justify the scale and intensity of development proposed on this site.
13. The design of the dwellings would also be at odds with those in the immediate vicinity. While I saw similar designs on an estate on the opposite side of Stortford Road, these are some distance from the site and there is no intervisibility. Accordingly, they do not provide a design context for the site. The design of the dwellings, which seek to maximise parking through the undercroft parking, adds to my concern that both proposals would appear as contrived and over intensive forms of development, squeezed into a constrained site with little regard to the character of the immediate area.
14. In conclusion, both forms of development would result in 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

15. The development would clearly have a different relationship with neighbouring dwellings than the existing bungalow. The dwellings to the front would sit in front of the building line of Evanston. Along with the dwellings further to the south, this would have the effect of enclosing the frontage of this bungalow. While there would be some separation, the shifting of the building line and increase in height would be likely to create something of an overbearing presence for occupiers of Evanston. This would not be mitigated by boundary treatments. Even given the generous front garden of Evanston, being set back behind neighbouring dwellings on either side would be likely to lead to an unwelcome sense of enclosure that would be detrimental to the enjoyment of their home.
16. The gardens of Evanston and White Clouds can already be overlooked from dwellings to the side and rear. Overlooking from within the site would be possible from dormer windows, albeit at an oblique angle and a relatively low height. The proposals would however clearly increase the scope of overlooking with the dwellings on plots 1 and 2 allowing for more direct views from upstairs windows into the gardens of both Evanston and White Clouds. This would lead to a discernible increase in the perception of being overlooked in the garden than might currently exist.
17. This would be particularly the case for Evanston, where housing would directly face the garden on three sides. Similarly, the principal elevation of plots 1 and 2 would look directly across the private drive into the garden of White Clouds. Although the degree of separation might provide some relief, it would not be sufficient to fully mitigate the perception of being more directly overlooked when in the garden.
18. I acknowledge that it is not unusual for there to be some overlooking of rear gardens in residential areas. Nevertheless, the layout and position of the

dwelling to the rear of the plot would still create an unwelcome and unneighbourly relationship with neighbours on either side. The reduced height of Appeal A would not provide adequate mitigation for this, as overlooking and the perceived loss of privacy would still exist. Moreover, landscaping or other boundary treatments would not adequately address the deficiency in layout.

19. The private drive serving plots 1 and 2 would pass by the common boundary with White Clouds. Vehicles would generally be passing much nearer to the side of the bungalow than at present and further back into the site, parallel with the rear garden. It would be reasonable to assume that two dwellings, plus visitor parking, would generate more trips, and associated noise and disturbance, than the existing dwelling. Moreover, vehicles would be passing by the rear garden of White Clouds from where it would be more unusual to experience noise from passing and manoeuvring vehicles. This would have a detrimental impact on the enjoyment of the garden by neighbours. This adds to the generally unsatisfactory relationship that would be created with neighbouring properties.
20. Although I have not identified any harm in relation to properties to the west of the site, the layout of the development would still result in a cumulative detrimental impact on 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 an overbearing impact, loss of privacy or disturbance. There would also be conflict with paragraph 130f of the Framework which seeks to ensure development provides a high standard of amenity for existing users.
21. The appellant has questioned the relevance of Policy H4. 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.

Housing mix

22. The Council assert that the developments would fail to provide an appropriate mix of housing in conflict with Policy H10 of the ULP. The policy seeks to ensure that in all new developments of 3 or more dwellings, a significant proportion of small market properties are included. The supporting text to the policy suggests that an element of two or three bed homes should be provided.
23. The appellant has suggested that this policy has not been applied consistently throughout the borough. Moreover, it is argued that previous refusals of permission on the site have not referred to Policy H10 and thus the approach to this site has been inconsistent. The Council has not disputed this.
24. The policy is clear and prescriptive about the mix of housing required. By providing nothing but 4-bed dwellings, the development is in clear conflict with this policy. However, as the Council has not provided any evidence relating to the existing mix of housing in the area or the impact that additional 4-bed dwellings would have, it is not possible to conclude with any certainty on the degree of harm that would be caused. Nevertheless, it would be reasonable to assume that the effect of a development of this scale would not be significant, particularly as the policy requires only a *proportion* to be two- or three-bedroom dwellings. As a result, while the development would conflict with Policy H10, I have given this little weight in the overall planning balance.

Living conditions – future occupiers

25. The garden of the rearmost dwelling 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 new dwellings were permitted. The relationship with Evanston would be similar to at present, with rear gardens might have the potential to be overlooked but from a more 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.
26. The dwellings in plots toward the front of the site would not be adversely 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 materially 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

27. 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. There would also be conflict with Policy H10. For the reasons given above, I have attached little weight to this conflict.
28. 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.
29. The provision of three additional dwellings would add to the housing supply and represent a tangible benefit of the proposals. They would also make more efficient use of the land than at present. The developments would help to support nearby services and facilities and would provide temporary construction jobs. However, whatever the scale of any housing shortfall, a net increase of three dwellings is unlikely to have a significant impact on the overall housing supply or economy. The benefits of the proposals are therefore limited in scale.
30. In my view, the adverse impacts of the developments would significantly and demonstrably outweigh the limited benefits of the proposals. Consequently, even if the Council are not able to demonstrate a 5-year supply, the proposals would not benefit from the presumption in favour of sustainable development as set out in the Framework.

31. 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.
32. 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 cannot 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'.
33. In conclusion, both proposals 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

34. For the reasons given above I conclude that both appeals should be dismissed.

S J Lee

INSPECTOR