



Appeal Decision

Site visit made on 26 April 2022

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2022

Appeal Ref: APP/C1570/W/21/3281424

Springfield, Park Drive, Hatfield Heath CM22 7BJ

- 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 B Percy on behalf of Persanti Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/21/1788/FUL, dated 20 May 2021, was refused by notice dated 29 July 2021.
 - The development proposed is the erection of two detached dwellings together with associated parking, residential curtilages and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings together with associated parking, residential curtilages and landscaping at Springfield, Park Drive, Hatfield Heath CM22 7BJ, in accordance with the terms of the application, Ref UTT/21/1788/FUL dated 20 May 2021, subject to the conditions (Nos 1-10) set out in the Schedule of Conditions at the end of this decision.

Preliminary Matters

2. A new site plan (reference 21_444 PL 03 Revision B dated May 2021) was submitted by the appellant during the appeal process. This adds a single visitor parking space, provides vehicle tracking details and adds notation to landscaping outside the site boundary.
3. In considering whether to accept the amended drawing I have had regard to the "Wheatcroft Principles". Whilst the plan materially alters the proposed development in showing an additional parking space, the alteration is not substantial, and the development is not so changed that to accept the revised drawing would deprive those who should have been consulted of the opportunity of such consultation. Accordingly, I have formally considered the additional drawing in my determination of the appeal.
4. The Council states that Policy S7 of the Uttlesford Local Plan (2005) (the ULP) was incorrectly cited in its first reason for refusal of permission, and that Policy S3 should have been referred to. Furthermore, the Council submits that its second reason for refusal should not refer to the proposal's level of parking provision as a concern. The appellant raises no objection to these submissions and I have consequently determined the appeal on the basis of the Council's requests.

Main Issues

5. The main issues are the effect of the proposed development on:
- The character and appearance of the area; and
 - The exercise of an adjacent public right of way and highway safety.

Reasons

Character and appearance

6. The appeal site is an area of land to the rear of the host dwelling. This lies at the end of Park Drive, an access drive off Chelmsford Road which serves a small number of properties. The surrounding pattern of development is generally one of detached dwellings set within linear plots of a generous size. However, "backland development" disrupts the pattern somewhat, resulting in the presence of a number of dwellings within smaller plots in the vicinity. The prevailing density is consequently not so uniform as to render any limited divergence from the pattern visually incongruous.
7. Open fields lie to the rear of properties on Chelmsford Road, and behind the appeal site. These provide a spacious and rural backdrop to residential development. A recorded public footpath (No.18) passes over Park Drive and along the appeal site's northern boundary before meeting open countryside. Thus, the site's countryside setting is apparent within public views from the footpath.
8. Permission¹ has already been granted for one detached dwelling at the site. A further permission² concerns the conversion of a former police station building which lies adjacent to Park Drive to two dwellings, and the erection of two further dwellings at the same site. The police station site borders Park Drive and hence it forms part of the appeal site's visual context. The appellant submits that the plot sizes permitted at that site are smaller than those proposed by the appeal scheme, and this is undisputed by the Council.
9. The proposed dwellings would each have garden areas of a similar size to those of some of the surrounding "backland" developments. This denser pattern of development would be reinforced in the event of the construction of the permitted former police station development. Some screening of the appeal scheme would be provided by surrounding vegetation within views from adjacent public footpaths and nearby properties. The scheme would lack undue prominence as a result of the proposed "1½" storey scale of the proposed dwellings.
10. Furthermore, the single house already permitted at the site would alter the pattern of development and would extend built form towards the open fields and adjacent to recorded public rights of way. The proposed additional dwelling would lie further from the public footpath and would be less visible within views from Park Drive due to its location behind the host dwelling.
11. As a result of the above considerations, any additional visual harm caused to the area's rural backdrop by the second dwelling now proposed would consequently be minimal.

¹ (Local Planning Authority Ref: UTT/19/2301/FUL)

² (LPA Ref: UTT/21/0603/FUL)

12. Thus, the proposal would have an acceptable effect on the character and appearance of the area. It consequently complies with Policy S3 of the ULP, which states that development at such a location will be permitted where it is compatible with the settlement's character and countryside setting. Further compliance exists with Policy GEN2 of the ULP, which requires new development to be compatible with the form and layout of surrounding buildings.

Highways

13. Whilst Public Footpath 18 passes along the boundary of the appeal site, the path is shown as a separate area of land on the submitted plans, and a path along approximately the route shown was available at the time of my site visit. Any grant of planning permission does not constitute permission to close or divert a public right of way affected by the development. Neither does it authorise any obstruction to or interference with a public right of way. Furthermore, the highway authority has powers to deal with any obstruction of the path or unauthorised disturbance of its surface. The Council additionally proposes the imposition of conditions to safeguard the public footpath and reduce the potential for conflict between path users and vehicles in the event of permission and I concur that these are necessary in the circumstances.
14. As a result, sufficient powers are available to the authority to take effective action should the proposed development adversely affect the public footpath. Thus, the scheme would not result in any unacceptable harmful effect on the exercise of the adjacent public right of way.
15. Chelmsford Road is an A road carrying regular traffic and hence any need for vehicles to reverse onto it to exit the appeal site would be unacceptable for highway safety reasons. The new plan demonstrates that the scheme would provide sufficient space for a delivery vehicle to turn within the site, and that parking would be provided within the development. These aspects can be secured by the imposition of conditions. The scheme does not propose alterations to Park Drive and hence an existing shared turning area would be unaffected. Thus, I am satisfied that the proposal would not result in unacceptable harm to highway safety in these regards.
16. The scheme consequently complies with Policy GEN1 of the ULP, which states that the design of the site must not compromise road safety and must take account of the needs of pedestrians and people whose mobility is impaired.

Other Matters

17. The Council's Officer Report refers to concerns regarding the proposal's effect on the living conditions of occupiers of the host dwelling, although it does not clarify these further. Nevertheless, I have identified no harm to arise from the development in this regard. Thus, paragraph (i) of Policy GEN2 has only minimal relevance to the main issues of the appeal.
18. Policy H4 of the ULP concerns backland development such as that currently proposed, and requires this type of development to meet certain criteria, including that there is significant under-use of land and development would make more effective use of it. Although the policy is not cited within its decision notice, the Council considers that the proposal does not comply with

this policy because the appeal site is garden land associated with the host dwelling.

19. The appellant submits that the proposed dwellings would have gardens of 149 and 190 square metres, and that the remaining garden to the host dwelling would be 440 square metres. These figures demonstrate that the host dwelling's original rear garden area would be of a substantial size which would be significantly greater than that set out within the Essex Design Guide, which sets out that a private garden size of 100 square metres has been found to be an acceptable and workable minimum size.
20. Whilst the above figures do not necessarily conclusively demonstrate a significant under-use of land, the Council gives minimal substantive reasoning on the matter and the appeal site provides a substantial area of rear garden land to the host dwelling which is additional to the reasonably sized garden area which is proposed to remain. Thus, I am satisfied that no unacceptable conflict with Policy H4 of the ULP results from the scheme.
21. I have had regard to other matters raised, including concerns about the proposal's effect on living conditions with regard to privacy and air quality. However, the upper floors to the front of both properties facing neighbouring dwellings would contain only rooflights, so that the proposal would cause no harm to privacy. Furthermore, the evidence before me does not demonstrate that the addition of vehicular traffic associated with one additional dwelling to that which has already been permitted would cause any unacceptable harm to air quality.

Conditions

22. I have imposed a plans condition because it creates certainty for all parties. Some of the submitted plans show 3D views of the proposed development. However, as those which do not show the visitor parking space would be incompatible with the new plan which I have accepted, I have not included a number of the 3D plans in the plans condition.
23. Conditions in respect of signage of and passage along the public footpath are necessary in order to reduce the potential for conflict between vehicles and path users, in accordance with Policy GEN1 of the ULP. Whilst the Council considered that the signage condition should be a pre-commencement condition, the Planning Practice Guidance sets out that such conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission. These circumstances do not arise in this case and consequently I have not imposed this as a pre-commencement condition.
24. Conditions in respect of materials and landscaping are necessary in order to safeguard the character and appearance of the area, in accordance with Policies S3 and GEN2 of the ULP.
25. A condition in respect of any potential contamination is necessary in order to protect health and in accordance with Policy ENV14 of the ULP.

26. A condition with regard to the provision of a parking and turning area is necessary in order to safeguard highway safety, in accordance with Policy GEN1 of the ULP.
27. I have imposed a condition concerning sustainable travel in order to encourage alternative modes of travel than by private car, in accordance with Policy GEN1 of the ULP.

Conclusion

28. There are no material considerations that indicate that the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

C Beeby

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: PL01 (Location Plan), PL04 (Floor plan), PL05 (Roof plan), PL06 (Elevation – Plot 1), PL11, PL12 (Access plan), PL13 (Floor plan), PL14 (Roof plan), PL15 (Elevations), 21_444 PL02 (Existing site plan) and 21_444 PL03 Revision B (Proposed site plan).
- 3) The definitive width and route of public footpath no. 18 (Hatfield Heath) shall be kept free and unobstructed at all times during development, and any proposed planting shall be set back a minimum of 1 metre from the edge of the public footpath.
- 4) No development shall commence above slab level until details (including samples where appropriate) 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. Development shall be carried out in accordance with the approved details / samples.
- 5) 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.
- 6) The development hereby permitted shall not be occupied until the vehicle parking and turning area has been constructed in accordance with details shown on submitted plan no. 21_444 PL 03 Revision B (Site Plan). The parking and turning area shall thereafter be retained for use for parking

- by the occupiers of the approved dwellinghouses and their visitors at all times.
- 7) Prior to occupation of the development there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. 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.
 - 8) 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.
 - 9) Prior to occupation of the development, the developer shall be responsible for the provision and implementation of one Residential Travel Information Pack regarding sustainable transport per dwelling, which shall be approved by Essex County Council and shall include six one-day travel vouchers for use with the relevant local public transport operator.
 - 10) Prior to occupation of the development, an appropriate signage scheme shall be submitted to and approved in writing by the local planning authority (in consultation with the highway authority) in order to notify users of Park Drive of the presence of Public Footpath 18. The signage scheme shall be provided in accordance with the approved details.