



Appeal Decision

Site visit made on 28 February 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/C1570/W/22/3308682

Clarence House, London Road, Newport CB11 3PW

- 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 Kirk Hatherly on behalf of Archers Developments against the decision of Uttlesford District Council.
 - The application Ref UTT/22/1576/FUL, dated 6 June 2022, was refused by notice dated 4 August 2022.
 - The development proposed is single apartment to be created within the roof space of the existing building, new roof light to the front and rear elevations including a window to the rear and side gables
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans which show a proposed access to the rear were submitted with the appeal reference 1062-21.PL.006 E and 1062-21.PL.008 A. I understand that the purpose of the amended drawings was to address some of the concerns raised by the Council during the consideration of the planning application. However, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought. The Council have not had an opportunity to formally comment upon the amended plans prior to the appeal being lodged and, for that reason, I consider that they, along with any interested parties, could be prejudiced if I determined this appeal on the changes. Accordingly, I have determined this appeal based only on the plans originally submitted with the planning application, and on which the Council made its decision.
3. The Newport Quendon & Rickling Neighbourhood Plan 2018-2033 (NP), was made June 2021 and forms part of the development plan for this area. This plan is referred to in the Councils statement in the context that the development would comply with the relevant NP policies. I have had regard to the NP in accordance with Paragraph 30 of the National Planning Policy Framework, 2021 (the Framework) in this context.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the living conditions of future and existing occupiers in relation to the provision of amenity space.

Reasons

5. The Essex Design Guide (Design Guide), in particular the 'Private Space' section sets out criteria for private and communal spaces. Amongst other things, the Design Guide requires at least 25m² of private space for each home on sites larger than 0.1ha. As such, the proposal requires an area of private space of at least 125m² which is as a result of there being 4 existing dwellings and the additional dwelling proposed. The private space proposed falls significantly short of this and as such there is conflict with the Design Guide.
6. The proposal includes 2 areas of amenity space, 1 to the front of the site and 1 to the rear. In terms of the space at the front of the site, this is a strip of land towards the side of the frontage and next to car parking spaces. The Design Guide advises that unusable strips of space between car parks or roads and buildings will not be counted as part of the communal garden provision. The space to the front of the site is poorly located, as it is bordered by car parking spaces and fronts the London Road. For these reasons, it would not result in a usable space for future occupiers to enjoy and should not be counted towards the overall amenity space proposed.
7. There is some dispute between the Council and the appellant in relation to the size of the rear amenity space, however the difference between the calculations is minor. In any case, it falls significantly short of the requirements of the Design Guide.
8. The rear amenity space would be located on the edge of the site, furthest away from the apartments and next to a car parking area and turning space. The location of the amenity space being away from the apartments, as well as being next to parking and a turning space, which is likely to be in frequent use, would not provide a pleasant space which would encourage its use.
9. The Design Guide provides some exceptions where lower provision may be acceptable which includes where development is adjacent to and overlooking a park or other large public space of high amenity value. In this regard, the appellant suggests that the site lies immediately adjacent to a large area of open space. Details of this open space are limited however from observations during my site visit I noted that the site is surrounded by built form and, as such, there are no obvious views or access to areas of open space.
10. I did view the open space referred to as the common, which is accessed via a short walk from the appeal site. The space is a large open area which would provide a high amenity value for future and existing occupiers however it would not replace the need for private space for future and existing occupiers located in close proximity to the individual units.
11. The Council highlight that the appellant has not carried out a previous approval for the site in accordance with the approved plans. This specifically relates to the provision of private amenity space whereby a large space was to be provided immediately to the rear of the building. Instead, what currently exists on site is a gravel car parking area to the rear and tarmacked frontage with some limited landscaping.
12. The proposal may be an improvement on the current situation in terms of space as no private amenity space is currently provided; however, it falls short of what was previously approved on the site, even with the provision of a

further dwelling. It is not a matter for me to address any alleged non-compliance with an earlier approval even though the open space requirements for the existing flats under the previous approval is a material consideration. In this regard, the current proposal provides significantly less private amenity space than that which was required to serve the existing accommodation. The lack of sufficient space to service the existing residential units and the addition of a further dwelling, would result in harm to the living conditions of both future and existing occupiers.

13. Consequently, the proposal would result in unacceptable living conditions for future and existing occupiers. It would be contrary to Policy GEN2 of the Uttlesford Local Plan Adopted January 2005 (LP) which, amongst other things, seeks to ensure development provides an environment, which meets the reasonable needs of all potential users. It would also be contrary to the Design Guide and the general design aims of the Framework.

Other matters

14. The development would provide some economic benefits during the construction as well as future occupier's spending. There would be some environmental benefits with the dwelling being proposed to be constructed environmentally low impact. The proposal would also address the shortfall of housing in the area; however, the provision of just 1 dwelling would make little contribution in this regard. These benefits are consistent with the aims of paragraph 8 of the Framework however due to the scale of the proposal, attract limited weight in support of the proposal.
15. I have no reason to conclude against the Council's assessment: that the principle of development is acceptable and in a highly sustainable location; the proposal does not cause harm to the character and appearance of the area; there would be no unacceptable harm in terms of overlooking, loss of light and noise on the existing and neighbouring occupiers; that there would be no objections in terms of flood risk, drainage, ecology, and that parking provision is acceptable. I also note that the proposed dwelling would provide acceptable living conditions for future occupiers in terms of outlook, light and internal space provision. However, these considerations do not outweigh the harm I have identified.

Planning Balance

16. Paragraph 130 of the Framework seeks to ensure development maintains a high standard of amenity for neighbouring occupiers. I see no fundamental conflict between these aims of the Framework and those of Policy GEN2 of the LP, as such, the conflict between the proposal and this policy is attributed significant weight.
17. There is no dispute that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. As such, relevant policies for the supply of housing should be considered out-of-date and the provisions of paragraph 11d ii) meaning a presumption in favour of sustainable development should be applied.
18. I have found that the proposal would lead to unacceptable harm to the living conditions of future and existing occupiers. In this regard, I have found that

the proposal would conflict with Policy GEN2 of the LP. Given the harm I have found this attracts significant weight against the scheme.

19. Consequently, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

20. 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 is dismissed.

D Wilson

INSPECTOR