



Appeal Decision

Hearing held on 18 November 2003
Site visit made on 18 November 2003

by **Martin Whitehead LLB BSc CEng MICE**

an Inspector appointed by the First Secretary of State

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Date 9 DEC 2003

5 APR 2004

A1273.

Appeal A: APP/C1950/A/03/1115192

Lambs Close, Cuffley

- 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 Apollo Consultancy Services Ltd against the decision of Welwyn Hatfield Council.
- The application (Ref. S6/2002/1261/FP), dated 19 August 2002, was refused by notice dated 21 October 2002.
- The development proposed is the demolition of 11 No garages and the new build of 7 No 2 bedroom flats to site (2).

Summary of Decision: The appeal is dismissed.

Appeal B: APP/C1950/A/03/1115193

Lambs Close, Cuffley

- 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 Apollo Consultancy Services Ltd against the decision of Welwyn Hatfield Council.
- The application (Ref. S6/2002/1260/FP), dated 10 August 2002, was refused by notice dated 21 October 2002.
- The development proposed is the demolition of 33 No garages and the new build of 13 No 2 bedroom flats to site (1).

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. Although both proposals are for flats in Lambs Close, the Appeal A proposal is regarding a site at the southern end of the close and the Appeal B proposal is regarding a different site near to the junction of the close with Station Road.

Main Issues

2. I consider the main issues for both appeals are the same. These are the effect of the proposal on:
 - (a) parking and highway safety in the area;
 - (b) the living conditions of the occupiers of adjoining dwellings, with particular regard to matters of privacy, outlook, daylight and sunlight; and
 - (c) the character and appearance of the surrounding area.

Planning Policy

3. The development plan includes the Hertfordshire Structure Plan Review 1991-2011 (HSPR), 1998, and the Welwyn Hatfield District Plan Alterations No 1, (WHDP) 1998. I have been referred to a number of policies and criteria in the WHDP of which I consider the following to be most relevant to these appeals. Policy BEV9 states that within a number of specified settlements, which include Cuffley, new development will only be permitted where it reflects the character and quality of their built environment and existing pattern of development. GEN CRITERIA 1 seeks to ensure that new development is designed and laid out to respect its surrounding environment and achieve a good architectural harmony with existing buildings in the vicinity. RES CRITERIA 4 establishes 7 common principles for considering new residential development. Principle (iii) states that the design of buildings should recognise the character of the overall street scene and/or the character of the area generally.
4. GEN CRITERIA 3 seeks to ensure that new development does not significantly harm the neighbours' residential amenities. RES CRITERIA 6 establishes standards for new residential development in order to prevent overlooking between dwellings. Development that has first floor living rooms is required to have a minimum separation distance of 37.5m. This distance should be increased when the development is over 3 storeys high.
5. In my opinion the car parking standards for new development stated in paragraph 4.12 of Appendix A to the WHDP are not consistent with national guidance provided by Planning Policy Guidance Note (PPG) 3: *Housing*. Supplementary Planning Guidance (SPG): *Parking Provision at New Development*, 2000, referred to by the Council in relation to HSPR Policy 25, sets maximum parking standards of 2 spaces per 2 bedroom dwelling. However, the Council has also referred to the draft SPG: *Parking Standards* which seeks, amongst other things, to achieve an average of 1.5 off-street parking spaces per dwelling. I consider that the parking standards in the draft SPG reflect national advice provided by PPG3. Its adoption is being progressed with that of the emerging Welwyn Hatfield District Plan Review, which has recently been the subject of a public inquiry, and I understand that there are no objections to the content of the draft SPG. Accordingly, I have given it substantial weight as a material consideration in accordance with guidance contained in paragraphs 3.15 to 3.18 of PPG12: *Development Plans*.

APPEAL A

Reasons

Parking and Highway Safety

6. The proposal would provide 7 car parking spaces for 7 two bedroom flats and would result in the loss of 11 existing private garages on the site. The Council has indicated in its draft SPG that for 2 bedroom dwellings a maximum of 1.5 spaces per dwelling would be required and that Cuffley is not considered to be an area where fewer spaces than this maximum would be appropriate. This is based on the distance of the area from shopping and its accessibility to non-car modes of transport, including footway, cycle, bus and rail links, and the economic health of the town. Although the site is within easy walking distance of a train station and bus stop, and it has local shops nearby, at the hearing I was made aware of the limitations of these services and facilities. Also, Cuffley is identified as an urban settlement where development is to be limited. Taking the above into account, I agree with

the Council that future occupiers of the flats would be reliant upon the car to access such necessary facilities as schools and larger shops, and for leisure.

7. I acknowledge that the provision of less parking spaces on the site than the number of garages that would be lost would be likely to result in fewer vehicle trips to and from the site, and relatively few of the garages are currently used by residents in Lambs Close. Also, cycle parking would be able to be provided on the site and secured by condition. However, it is my view that future residents would be likely to require a car, based on the nature and location of Cuffley, and there would be a need for short term parking of delivery vehicles and visitors' cars associated with the proposed flats. Therefore, I am not satisfied that one space per dwelling would be sufficient to adequately serve the development and I am concerned that the proposal would result in a greater need for on-street parking in the area.
8. Lambs Close is a relatively narrow cul-de-sac with parking provided along one side, which is permit only between 11:00 and 13:00. In addition, there are a number of off-street spaces provided for the existing flats. I am aware that the total number of spaces is less than the number of existing flats, and a large number of local residents have expressed concern about the existing problems with parking. It is my opinion that, due to this shortfall, the additional requirement that would result from the proposal would cause overspill parking onto other roads in the area. I consider that this would have an adverse effect on the parking currently enjoyed by the residents of those roads, and the additional movement of vehicles on them would harm highway safety in the area.
9. I conclude that the proposal would have a detrimental effect on parking and highway safety in the area. It would also fail to accord with the relevant standards in the WHDP and the draft SPG.

Living Conditions

10. A number of first, second and third floor bedroom and living room windows in the proposed block of flats would directly face the rear gardens to the adjacent bungalows in Theobalds Close. They would be about 6.5m from the site boundary at their closest point. In my opinion, this distance would be insufficient to prevent unacceptable overlooking of the adjacent rear gardens, particularly from the second and third floor windows and to that of No 1, which is the shortest and would be nearest to the 4 storey element of the building.
11. The bedroom windows in the north elevation of the flats would be about 15m from the nearest windows in the adjacent block of flats. Although the relative orientation of the windows would mean that they would not directly face each other, I am not satisfied that this would ensure that acceptable levels of privacy to occupiers of the existing flats would be preserved. I accept that the orientation of these windows to the rear gardens of the bungalows in Theobalds Road, combined with the relatively generous length of the gardens, would ensure that the proposal would not significantly harm the privacy of the residents of those properties. However, I do not consider that the proposed provision of rooflights and obscure glazing to bathroom, toilet and kitchen windows would prevent the proposal causing unacceptable loss of privacy to the neighbouring residents.
12. With regard to other matters concerning living conditions, I am satisfied that the building would be a sufficient distance from the adjacent properties, and their gardens are large enough, to ensure that the proposal would not cause any unacceptable harm to the neighbours' outlook. Also, taking account of its location south of the existing flats,

I consider that the building would be low enough, and a sufficient distance away from them, to ensure that the proposal would not cause any significant loss of sunlight or daylight to the occupants.

13. Whilst I have found that the proposal would not significantly affect the neighbours' outlook or light, I conclude that, due to its effect on their privacy, the proposal would cause unacceptable harm to the living conditions of the occupiers of adjoining dwellings. It would also fail to accord with WHDP GEN CRITERIA 3 and RES CRITERIA 6.

Character and Appearance

14. The appeal site is located at the southern end of Lambs Close, in a residential area, and is bounded to the south and west by the rear gardens of bungalows in Theobalds Close and Theobalds Road respectively. To the north are 4 four storey blocks of flats of similar design to each other that are fairly regularly spaced and set within spacious green grounds. I consider that this space, together with the line of existing mature trees to the west of Lambs Close and the planting along the railway embankment to the east, contribute to its green and open character.
15. At the hearing the Council accepted that residential development would be appropriate on the site and I agree. Although the proposed flats would be on a relatively small area of land, they would be a similar height to the adjacent block of flats, which I consider would hide most of the building from public view along Lambs Close. I recognise that the building would be visible behind the rows of bungalows which are along Theobalds Close and Theobalds Road. However, its design would reflect that of the existing flats, but with a lower 3 storey element to the east. I am therefore satisfied that it would be a sufficient distance from these roads, at over 40m, for it not to have any more harmful effect on the street scene than the existing flats.
16. The 4 storey part of the building would be about 2m from the trunk of a large mature oak tree, and a similar distance to another, which are near to the west boundary of the site. I am concerned that the proposal would result in the loss of these trees, which are the subject of a Tree Preservation Order (TPO), through either damage to their roots or the need to remove them to prevent damage to the proposed building. The appellant suggested at the hearing that the Council had previously agreed that the trees would be able to be suitably protected. Nonetheless, I am not satisfied that appropriate measures could be put in place to ensure their survival, due to their close proximity to the building and its foundations. Their resulting loss would, in my opinion, have a detrimental effect on the character and appearance of the area, as they provide an attractive green backdrop to the block of flats, at the end of Lambs Close, and the bungalows along Theobalds Road.
17. I acknowledge that the proposal would make more efficient use of an area of previously developed land in an urban area, in line with national advice provided by PPG3. However, PPG3 also emphasises the importance of good design and not compromising the quality of the environment. In this case, I consider that the harm resulting from the loss of the oak trees would be unacceptable for the reasons that I have given. Furthermore, due to its relatively secluded location, I do not consider that any improvements to the site by the removal of the garages and provision of planting and green areas would make sufficient difference to the appearance of the area to outweigh this harm.

18. I conclude that the proposal would have an adverse effect on the character and appearance of the surrounding area. It would also fail to accord with WHDP Policy BEV9, GEN CRITERIA 1 and RES CRITERIA 4.

Conclusions

19. I have taken account of the likely improvements to security that would result from the proposal, together with the acceptance by the Council that the access to the site would be appropriate for use by refuse vehicles and emergency vehicles. However, I am not satisfied that these matters, or any other benefits that have been suggested by the appellant, would outweigh the harm that I have previously mentioned. Therefore, for the reasons given above and having regard to all other matters raised, I conclude that Appeal A should not succeed.

APPEAL B

Reasons

Parking and Highway Safety

20. The proposal would provide 13 parking spaces for 13 two-bedroom flats and would result in the loss of 33 private garages that are currently available to rent. At the hearing the appellant stated that 7 of the garages on the site are empty and that people living outside the immediate vicinity of the site rent the majority of the garages. Also, I accept that space would be available on the site to provide the required amount of cycle parking, which could be secured by condition.
21. Although 7 parking spaces that were provided under previous planning permission for additional flats in the existing blocks are no longer able to be accessed from the appeal site, I am satisfied that alternative access arrangements could be made to enable them to be used. However, even taking account of the above, I am concerned that the loss of the small number of garages that are used by residents of Lambs Close and the surrounding roads would exacerbate the existing parking problems in the area. I consider that this would further emphasise the need for the development to provide additional parking above one space per dwelling. Therefore, for similar reasons to those given in Appeal A, I conclude that the proposal would have a detrimental effect on parking and highway safety in the area. It would also fail to accord with the relevant standards in the WHDP and the draft SPG.

Living Conditions

22. A number of first, second and third floor bedroom windows in the proposed block of flats would directly face the rear windows and relatively short rear gardens of the adjacent maisonettes in Station Road. They would be about 12m from the site boundary. In my opinion, the distance between them and the first floor windows of the maisonettes would be insufficient to ensure that an acceptable level of privacy would be retained. Also, I consider that the existing boundary fencing and planting would not provide sufficient screening to prevent significant overlooking of the gardens.
23. The living room and bedroom windows in the south elevation of the flats would be about 20m from windows in the north elevation of the adjacent block of flats. Although the flats would be at a slight angle to each other, I am not satisfied that this would be sufficient to prevent an unacceptable level of overlooking between habitable rooms. Furthermore the

separation distances between windows would not comply with the requirements of WHDP RES CRITERIA 6. I do not consider that the proposed provision of rooflights and obscure glazing to bathroom, toilet and kitchen windows would prevent the proposal causing unacceptable loss of privacy to the neighbouring residents.

24. With regard to matters of outlook, the end of the 3 storey wing to the block of flats would be just over 1m from the rear boundary of the maisonettes at Nos 48 and 50 Station Road. Taking account of this, together with the relatively short rear garden to the maisonettes and the height and scale of the proposed building, I consider that the building would appear overbearing when viewed from these properties. Therefore, it is my opinion that the proposal would cause unacceptable harm to the neighbours' outlook.
25. Turning to matters of sunlight and daylight, the block of flats would be located south of the maisonettes in Station Road. I am concerned that the relative orientation of the building to the maisonettes, combined with its height and distance from them, would result in unacceptable overshadowing and loss of sunlight to the rear gardens and rear windows of some of the maisonettes. Therefore, although I am satisfied that it would not have a significant detrimental effect on the light received by other properties, in my opinion the proposal would result in a significant loss of sunlight and daylight to neighbours.
26. I conclude that the proposal would cause unacceptable harm to the living conditions of the occupiers of adjoining dwellings. It would also fail to accord with WHDP GEN CRITERIA 3 and RES CRITERIA 6.

Character and Appearance

27. The appeal site is located behind a row of maisonettes along Station Road and near to the entrance into Lambs Close. To the south are 4 four storey blocks of flats in Lambs Close. The site provides a transition between these flats and the adjacent maisonettes. In my opinion, although the site is in a relatively prominent location, the existing garages on it are low enough not to have a significant impact on the green and open character and appearance of the area.
28. I consider that the proposed block of flats, that would have a central core that would be slightly lower than the existing flats, would have a much more dominating effect on the appearance of the area than the existing garages. I recognise that the proposal would include a lower 3 storey element near to the rear of the adjacent 2 storey maisonettes and that its design would reflect that of the existing flats. However, I am concerned that its relatively close proximity to the rear of the maisonettes, combined with the length and height of its western elevation along Lambs Close that would extend across most of the width of the site, would make it appear cramped. Therefore, in my view the proposal would fail to reflect the green and open character of the existing pattern of development and its surrounding environment and would not achieve a good architectural harmony with the maisonettes in Station Road.
29. I acknowledge that the proposal would make more efficient use of an area of previously developed land in an urban area, in line with national advice provided by PPG3, and would provide some planting and amenity areas on the site. However, I do not consider that these matters outweigh the harm that the apparent scale and bulk of the building would cause to the character and appearance of the area.

30. I conclude that the proposal would have an adverse effect on the character and appearance of the surrounding area. It would also fail to accord with WHDP Policy BEV9, GEN CRITERIA 1 and RES CRITERIA 4.

Conclusion

~~31. For the reasons given above and having regard to all other matters raised, I conclude that the Appeal B should not succeed.~~

Formal Decisions

Appeal A

32. In exercise of the powers transferred to me, I dismiss Appeal A.

Appeal B

33. In exercise of the powers transferred to me, I dismiss Appeal B.

Information

34. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.



INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr O Ismail BSc CEng MICE	Director, appellant company.
Mr D Djemal LLB	Managing Agent, appellant company.
Mr I M Ismail	Appellant company.

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Wright MA DipUD	Welwyn Hatfield Council.
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INTERESTED PERSONS:

Ms A Rust	Northaw & Cuffley Parish Council.
Mr J Mansfield	Councillor, Northaw & Cuffley Ward.
Mr J Nicholls	Councillor, Northaw & Cuffley Ward.
Mr R H E Ham	5 Lambs Close.
Mr L J V Clements	22 Lambs Close.
Mr J G Hobbs	54 Station Road.
Mr G Jones	27 Theobalds Road.
Mrs A Stroud	47 Lambs Close.
Ms H Birch	7 Lambs Close.
Mrs Burgess	29 Theobalds Road.
Mr Moore	38 Lambs Close.
Mrs Moore	38 Lambs Close.

DOCUMENTS

Document	1	List of persons present at the hearing.
Document	2	Council's letters of notification of the hearing and lists of those notified.
Document	3	Letters in response to the notices- Appeals A and B.
Document	4	Appendices attached to the appellant company's statement- Appeal A.
Document	5	Appendices attached to the appellant company's statement- Appeal B.
Document	6	Appendices A to E attached to the Council's statement- Appeals A and B.

PLANS

Plans	A/1 to 8	Application plans- Appeal A.
Plans	B/1 to 8	Application plans- Appeal B.
Plan	C	Location plan- Appeal A.
Plans	D/1 to 2	Location plans- Appeal B.