
Appeal Decision

Site visit made on 6 September 2016

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 October 2016

Appeal Ref: APP/K0235/W/16/3147427

Oakfield House, 64 Kimbolton Road, Bedford MK40 2NZ

- 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 Tom Dolemore against the decision of Bedford Borough Council.
 - The application Ref 15/02709/FUL, dated 11 November 2015, was refused by notice dated 12 January 2016.
 - The development proposed is "Change of use from private school to residential".
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The appeal site, as shown on submitted plans 13/089/112C and 13/089/115C, comprises a large, two-storey Victorian building with a large, modern, two-storey rear annexe. The Victorian building has an extant planning consent¹ for its change of use from educational to residential to provide a five bedroom dwelling, subject to a planning condition to demolish the rear annexe which was used as a drama block. It is clear from the appellant's evidence that the application subject to this appeal relates solely to the conversion of the rear annexe to provide two additional residential units. The Council's description of the proposed development is "Change of use of school drama block (Use Class D1) to residential (Use Class C3) to form two flats". This description therefore provides a clear, concise and accurate description of the proposed development and I have determined the appeal on this basis.
3. I have not considered the implications for parking matters or for future occupier living conditions in respect of the Victorian building given that the proposal would prevent the implementation of the extant planning consent, by virtue of the conditional requirement to demolish the rear annexe. Furthermore, the Victorian building does not form part of the current appeal proposal.
4. The Council indicates that some internal works to implement the extant planning consent in respect of the Victorian building have been undertaken without complying with conditions of the planning consent. Whilst this may be the case, the decision whether or not to take any enforcement action in respect

¹ Ref 14/00309/FUL

of these internal works lies with the Council. It was also not clear from my site visit or the representations whether or not the Victorian building is currently in occupation. I have therefore considered the appeal having regard to the merits of the proposal and on the basis of the submitted plans.

Main issues

5. The main issues are:

- The effect of the proposal on the living conditions of the existing occupiers of 62, 66 and 68 Kimbolton Road with particular regard to privacy;
- The effect of the proposal on highway safety; and
- Whether the proposal would provide an adequate level of and adequate access to cycle parking provision to comply with the Council's sustainable communities agenda.

Reasons

Living conditions

6. Prior to the granting of the extant planning consent, the Victorian building and its rear annexe were used for additional classroom space for St Andrew's school, the playground of which adjoins the westernmost part of the northern boundary of the appeal site. Whilst this school and some other non-residential uses occur in the vicinity of the appeal site, including some buildings associated with Bedford Hospital, the area is generally residential in character. Nos 66 and 68 Kimbolton Road, currently in joint use as a residential care home, and the associated communal rear gardens of the residential care home, lie to the immediate north of the appeal site. To the south, beyond Pemberley Lane, a narrow private road, lies No 62, a large residential building converted into flats.
7. The guidance within the Bedford Borough Council Design Guidance- Residential Extensions, New Dwellings and Small Infill Development adopted January 2000 (RENSID) advises, amongst other things, that a minimum privacy distance of 9 metres (m) should be provided between a primary window and any neighbouring garden that it directly overlooks. The RENSID also advises that a minimum privacy distance of 18m should be provided between directly overlooking primary windows. The RENSID identifies primary windows as those within a habitable room.
8. The proposal seeks to convert the rear annexe to provide two, three bedroom flats. I observed that from some of the primary windows on the northern elevation at first floor level, clear and direct views from a short distance of approximately 3.5m into the communal rear garden of No 66 and 68 would be obtained by any future occupiers. This was most obvious from those windows that would serve the kitchen/lounge and the third bedroom of the proposed first floor flat. I also observed that any vegetation growing along the shared boundary would be of insufficient density to substantially screen views into this garden.
9. Nevertheless, given that this garden is used communally, it is likely that the level of privacy that would be expected by the users of this garden would be substantially less than level of privacy that would be expected by the users of a private rear garden associated with a single dwelling. I therefore consider that

whilst the separation distance between primary windows and the rear garden of Nos 66 and 68 would be considerably less than the recommended separation distance set out in the RENSID, any additional overlooking would not, in this instance, result in harm to the enjoyment of this garden by the occupiers of Nos 66 and 68.

10. A flat within No 62 at first floor level has two side windows which face the rear annexe. I observed that one of these windows appears to serve a kitchen. However, the other window is likely to serve one of the flat's main habitable rooms and is therefore likely to be a primary window of this property. Some of the windows within the southern elevation of the proposed first floor flat, including the window with the most direct relationship with the primary window of the flat at No 62, would be located along a corridor. These windows would not therefore be primary windows and it is unlikely that any future occupiers would spend much time looking out of these windows given the corridor would predominantly be used to access bedrooms.
11. However, I observed that clear views, from a short distance of approximately 9m, would be obtained by any future occupiers into the primary window of the flat within No 62 from the primary windows of the proposed kitchen/lounge room. Whilst these windows would not directly face each other, views towards the windows of the flat within No 62 would not be sufficiently oblique to significantly reduce any overlooking into this window from such a short distance.
12. Any future residents would also be likely to spend considerably more time looking out of these windows when relaxing in their home, including into the evening, than any former pupils would have done when focussed on their lessons. Moreover, the use of this space by pupils would likely to have been limited to daytime hours only. I do not, therefore, consider that the level of overlooking in respect of the former use of the rear annexe is helpfully comparable to the use of the rear annexe for residential purposes.
13. I therefore conclude that the overlooking of the primary window of the flat within No 62 would result in a significant loss of privacy for the existing occupiers of this property that would considerably reduce their enjoyment of their home.
14. The proposal would therefore be contrary to saved Policies BE37 and H38, of the Bedford Borough Local Plan 2002 (Local Plan) that require, amongst other things, development to respect the privacy enjoyed by adjoining occupiers and not to result in a loss of privacy for local residents resulting from overlooking. These policies are consistent with the broad aims and objectives of the National Planning Policy Framework (the Framework) that seek planning to secure a good standard of amenity for all existing occupiers of land and buildings.

Highway safety

15. The appeal site fronts onto Kimbolton Road which is an adopted B class road subject to a 30mph speed restriction. There are parking restrictions along both sides of Kimbolton Road and where limited on-street parking provision is present it is time restricted to between the hours of 0800 and 2200. Pemberley Lane which runs to the immediate south of the appeal site is a private road with no opportunity for on-street parking due to its narrow width.

Some surrounding streets, including Oakland Road, Glebe Road and Pemberley Avenue are subject to a Controlled Parking Zone (CPZ).

16. The Council considers that a reasonable walking distance to gain access to a private motor vehicle would be 400m, which in time, equates to approximately five minutes. This distance and time also seems to me to be both reasonable and convenient. Other streets within 400m of the appeal site that provide on-street parking and which are not within a CPZ include St Andrew's Road, St Michael's Road, St Augustine's Road, Kimbolton Avenue, Merton Road, Goldington Avenue, St Minver Road and Cornwall Road.
17. The Council sets out that the degree of parking along these streets would normally peak between midnight and 0500 hours. A recent parking survey undertaken by the Council in respect of these streets on a Wednesday between 1830 and 1930 hours and on a Thursday between 0630 and 0710 hours found that between 70% and 90% of on-street parking spaces were in use along these streets at these times. Whilst I accept that it was only a snapshot in time, during my site visit which occurred in the early afternoon, I also observed that very few on-street parking spaces were available along these streets. The parking survey found that streets within a CPZ have significantly lower levels of on-street parking.
18. The Council's parking standards for residential use are set out in the Bedford Borough Council Parking Standards for Sustainable Communities- Design and Good Practice Guide- Interim Policy and Supplementary Planning Document (SPD) adopted September 2014. The Council sets out that the proposed two, three bedroom flats would require four resident parking spaces and one visitor parking space. The SPD sets out parking for a dwelling should be located on plot, and/or in a communal parking courtyard, and/or on the street in front of a dwelling.
19. The proposal would provide no on-site parking spaces and given the restrictions, any parking requirements could not be accommodated on the street to the front of the appeal site. The proposal would therefore fail to comply with the Council's parking standards. This would therefore result in the reliance of any future occupiers and any visitors to park any private motor vehicles within the surrounding streets not subject to parking controls which are clearly already subject to substantial parking pressure. Moreover, the appellant has not provided any substantive evidence of their own to adequately demonstrate that these streets could reasonably accommodate the additional on-street parking demand that would arise from the proposal at peak hours, including during weekdays and at weekends.
20. I therefore consider that the lack of any on-site parking provision would lead to a considerable increase in pressure for on-street parking in surrounding streets not controlled by parking restrictions which already experience a high parking demand. This would result in significant harm to highway safety.
21. Whilst I acknowledge that the previous use of the rear annexe as a school would have required a level of on-street parking to drop off and pick up children, the parking requirements for a school would not be during peak hours and would be limited to daytime hours during weekdays only. Therefore, such a comparison to the proposed use of the rear annexe for residential purposes is not particularly helpful, given that greater resident parking demand would occur during peak hours during weekdays and at the weekend.

22. I acknowledge the appellant's argument that the appeal property is within a location with a good level of access to public transport, shops and services. It also falls within an area identified within the SPD as Accessibility Zone 1 which encompasses those areas which are most accessible by walking and public transport. However, whilst the location may discourage some car use by any future occupiers, it does not necessarily mean that they would not own a car. Furthermore, any scope within the SPD for reducing parking standards within Accessibility Zone 1 relates only to non-residential uses and would therefore not apply in this instance. Moreover, the SPD sets out that no newly constructed residential dwellings, conversions or subdivisions of existing dwellings or other land use classes to residential are eligible for residents' permits.
23. The appellant highlights some examples within Accessibility Zone 1 where the Council has accepted car free residential development. Nevertheless, these examples appear to relate to residential development within a CPZ. I have also not been provided with any detailed information in respect of these schemes to allow any informed comparisons between the context of those schemes and the context of the proposal I am to consider. As such, these examples are not helpfully comparable. In addition, each case must be determined on its own merits.
24. I therefore have no convincing reasons before me that would justify an exception to the Council's parking standards in this instance and which would lead me to alter my decision in respect of the harm I have found to highway safety.
25. The proposal would therefore be contrary to saved Policy BE30, of the Local Plan. This policy requires, amongst other things, development to have regard to any additional traffic expected to arise including in relation to highway capacity and to provide car parking. The proposal would also be contrary to the broad aims and objectives of the Framework which requires development to be refused on transport grounds where impacts are severe.

Cycle parking

26. The Council's SPD sets out the requirements for cycle parking provision for new development. To comply with the SPD guidance, one short stay and four long stay cycle parking spaces would be required for the two proposed flats. Furthermore, the SPD advises that cycle parking should be easily accessible by all members of the community.
27. The submitted plans indicate that six cycle parking spaces would be provided within the westernmost part of the appeal site. This would clearly exceed the number of cycle parking spaces required for the two proposed flats and would be within an accessible location within the appeal site. The proposal would therefore comply with the Council's cycle parking standards and guidance set out within the adopted SPD in this regard.
28. The proposal would therefore comply with saved policy BE30, of the Local Plan, which requires, amongst other things, development to be adequately served by and to make provision for access by cycles.

Other matters

29. The appeal property lies within the Bedford Conservation Area (BCA). Bedford School Chapel, a Grade II listed building, lies a short distance to the west of the appeal property. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that with respect to development affecting buildings or other land in a conservation area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area." Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting. In addition, Paragraph 132 of the Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
30. Given that the proposal seeks to convert an existing building and any external works would be limited, I am satisfied that the proposal would preserve the character and appearance of the BCA and would preserve the setting of Bedford School Chapel. No harm would therefore arise to the significance of these designated heritage assets.
31. I acknowledge that the provision of two additional dwellings would make a contribution, albeit a limited contribution, to housing supply within the Borough. I also acknowledge that the proposed dwellings would be within a location with a good level of access to public transport, local services and facilities. The proposal would also generate some modest economic benefits through additional Council Tax payments and local spending by any future occupiers. Nevertheless, the harm that I have identified to neighbour living conditions and to highway safety, which would be significant, would clearly and demonstrably outweigh these benefits.

Conclusion

32. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR