

Appeal Decision

Site visit made on 11 July 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 27 October 2016

Appeal Ref: APP/Y0435/W/16/3148528

**Site B1.1 South, North Second Street, Central Milton Keynes,
Buckinghamshire MK9 1AL**

- 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 Abbeygate Developments Ltd against the decision of Milton Keynes Council.
 - The application Ref 15/00827/FUL, dated 8 April 2015, was refused by notice dated 18 January 2016.
 - The development proposed is the redevelopment of existing car park for the construction of 24 residential apartments (C3 Use) at Site B.1.1 South, North Second Street, Central Milton Keynes.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of existing car park for the construction of 24 residential apartments (C3 Use) at Site B1.1 South, North Second Street, Central Milton Keynes, Buckinghamshire MK9 1AL in accordance with the terms of the application, Ref 15/00827/FUL, dated 8 April 2015, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - Pedestrian safety;
 - Highway safety having regard to parking.

Reasons

Character and appearance

3. The appeal site comprises an existing car park located within central Milton Keynes. It is accessed off and fronts onto North Second Street. The surrounding area is characterised by a mixture of commercial and residential buildings of varying height and design.
 4. The front elevation of the proposed building would face North Second Street and would include the main entrance to the apartments. The entrance together with the circulation space above it on the upper floors of the building
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would present a large glazed feature to the street. The remainder of the ground floor fenestration within the front elevation would serve storage and parking areas and the use of a combination of materials including coloured glass and timber means that the front elevation would present a varied frontage to the street and there would not be any significant lengths of blank wall. The upper floors of the front elevation of the building would contain various openings serving habitable rooms and balconies. Consequently the building would in my view present an active frontage facing the public realm.

5. The north elevation of the proposed building would not contain any window or door openings but three different types of brickwork are proposed in an attempt to give the elevation a more varied appearance. Though visible from North Second Street, this elevation is located adjacent to the Staples car park and does not front a street identified as an active frontage in figure 10 of the CMK Alliance Plan 2026 (CMKAP). I note that the side elevation of the adjacent building fronting Grafton Gate similarly contains no openings, though it is smaller in scale than the proposed building. Nevertheless it contributes to the character and appearance of the area and I am satisfied that the north elevation of the proposed building adequately reflects and would not be harmful to the surrounding development.
6. With the exception of a small section of the frontage where there is an existing sub-station, the proposed building would be provided with continuous weather protection and shelter at pavement level to a minimum depth of at least 2 metres. At the time of my site visit I noted that not all elevations of existing buildings on North Second Street have this feature and I consider that the weather protection proposed is acceptable.
7. Taking the above matters into consideration, I conclude that the proposal would not appear out of keeping or have an adverse effect on the character and appearance of the area. It therefore accords with policies G7 and G9(a) of the CMKAP. These policies seek, amongst other things, to ensure that developments have active frontages and provide continuous weather protection. Though not specifically referred to in the Council's reasons for refusal, it also accords with policies D2 and D2A of the Milton Keynes Local Plan (LP), policies CS7 and CS13 of the Milton Keynes Core Strategy (CS) and to relevant paragraphs of the National Planning Policy Framework (the Framework). These policies seek, amongst other things, to ensure high quality and well designed places.

Pedestrian safety

8. The CMKAP states that the aim of the active frontages policy (Policy G7) is to enhance the pedestrian experience and to maximise pedestrian safety and the perception of safety.
9. The Council is concerned that the lack of an active frontage would fail to maximise pedestrian safety and the perception of safety. However, as I have already noted, the proposed building would have a large glazed entrance and circulation space, a varied ground floor frontage and numerous windows and balconies within the front elevation. The proposal would also introduce an additional residential use into a street containing a large amount of commercial uses at ground floor thereby helping to increase footfall and activity to the area outside of normal business hours.

10. Consequently I conclude that levels of activity associated with the proposal would be comparable to those of other uses in the immediate area so there is no reason to conclude that the proposal would detract from current levels of safety or perceptions of safety. On that basis it therefore accords with Policy G7 of the CMKAP. This policy seeks, amongst other things, to ensure that developments have active frontages.

Highway safety and parking

11. The appeal site is currently used as a car park. At the time of my visit it appeared to be available for use by guests of the adjacent hotel though I note that both main parties make reference to it also being used in connection with the adjacent retail and former restaurant units. Both parties agree that the proposal would result in a reduction in the overall number of parking spaces on the appeal site and that the number of parking spaces and cycle parking to be provide for the apartments meets the Council's standards as set out within the Parking Standards for Milton Keynes Supplementary Planning Guidance 2005 (SPG).
12. However the Council has raised concerns regarding the amount of parking spaces that would remain for the hotel which is below the Council's maximum standard of 1 parking space per 3 bedrooms as set out within the SPG. The total number of spaces that would remain for the hotel is 18, 9 below the maximum standard and this does not include any dedicated spaces within the appeal site itself. The appeal site would contain 7 parking spaces to be shared between the hotel, retail and former restaurant units and a further 8 shared spaces adjacent to the appeal site. The total number of hotel and shared parking spaces proposed is 33, this exceeds the maximum standard for the hotel as set out within the SPG though I acknowledge that not all of the shared spaces would be available at all times to the hotel.
13. At the time of my visit I noted that the appeal site and surrounding sites are located in a central position close to a wide range of services and facilities and within easy walking distance of the central railway station. In addition a large amount of on street and car park pay and display parking is available close to the appeal site and surrounding sites with numerous spaces available at the time of my visit.
14. Though I note that the number of hotel parking spaces that would be retained following the proposal is below the maximum standard as set out in the SPG, the central and accessible location of the appeal site and surrounding sites together with the availability of alternative parking means that I am satisfied that the proposal would not be likely to result in unauthorised on street parking to the detriment of highway safety. There is no substantive evidence to show that unauthorised on street parking is likely to occur and I note that no objections were raised to the proposal by the Highway Authority, subject to the imposition of appropriate conditions.
15. Taking the above matters into consideration, I conclude that the proposal would provide adequate parking facilities and would not have an adverse effect on highway safety. It therefore accords with Policy T15 (ii) of the LP which states that on-site parking should not be reduced below the maximum standard if it would be likely to result in off-site parking causing problems that cannot be resolved by on-street parking controls.

Other Matters

16. One of the Council's reasons for refusal refers to non-compliance with Policy G10(g) of the CMKAP. Part (g) of the policy seeks to foster the creation of communities within developments by establishing communal facilities, such as shared open space, and wherever possible establishing management structures that are controlled by the residents to look after shared areas and take on shared responsibilities.
17. The proposal incorporates only those communal facilities necessary for the building to function satisfactorily. Whilst the measures in Policy G10(g) would be desirable, I consider that it would not be reasonable for them to be required in this case, given the particular characteristics of the appeal site.

Planning Obligation

18. I have considered the Planning Obligation in light of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the Framework.
19. CS Policy CS21 states that new development that generates a demand for infrastructure will only be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of that development is either already in place or there is a reliable mechanism in place to ensure that it will be delivered. The Council's Supplementary Planning Guidance on Planning Obligations for Central Milton Keynes (SPGPO) identifies the main requirements for infrastructure and facilities which will be sought by the Council from applicants seeking planning consent for new development in Central Milton Keynes. The obligations within the Planning Obligation relate to the following matters.
20. Education: Whilst the Council has provided some information regarding nearby education provision and existing and future demand for places, there is no detailed information about the specific demand that could be expected to be generated by the proposal, where most apartments would only have 1 bedroom. The evidence before me does not demonstrate that the Education Contribution would be necessary to make the development acceptable in planning terms.
21. The Community Facilities Contribution would go towards a new community sports facility nearby which the Council states would directly serve the proposal and provide facilities for existing and new residents to meet socially, engage in positive activities and gain a sense of belonging in the centre of Milton Keynes. I have been provided with very limited information regarding that facility and the sum requested is not supported by an adequate explanation. Consequently I am not satisfied that this sum is fairly and reasonably related to the development proposed.
22. The Public Transport Contribution: would be used to improve the local bus service to encourage the occupiers of the proposal to utilise passenger transport services. I note that the sum requested is consistent with the SPGPO and on the basis of the evidence before me, I am satisfied that this obligation is fairly and reasonably related to the development proposed.

23. The Public Art contribution is based on the gross development cost and would be used towards public art in the immediate area. I note that the sum offered is consistent with the SPGPO and that it would be used to support the aim of high quality and well designed places and on the basis of the evidence before me, I am satisfied that this obligation is fairly and reasonably related to the development proposed.
24. LP Policy D4 requires all new development exceeding 5 dwellings to include carbon neutrality or financial contributions to a carbon offset fund to enable carbon emissions to be offset elsewhere. The Council's Supplementary Planning Document Sustainable Construction Guide (SPD) provides detailed advice on Policy D4. Having regard to the number of apartments proposed and to the fact that the proposal is not carbon neutral, on the basis of the evidence before me, I consider that this obligation would be fairly and reasonably related to the development proposed.
25. The Highways Network Contribution would be used to improve local signage to support walking and cycling in the immediate area. I note that the sum requested is consistent with the SPGPO and on the basis of the evidence before me, I am satisfied that this obligation is fairly and reasonably related to the development proposed.
26. Taking the above matters into consideration, since the obligations relating to education and community facilities fail to meet one or more of the tests set out in CIL Regulation 122, I am unable to take them into account in determining the appeal. However I am satisfied that the obligations relating to public transport, public art, carbon offsetting and the highways network meet the tests and as such I have taken those obligations into account in determining the appeal.

Conditions

27. I have had regard to the conditions suggested by the Council and the appellant. I have imposed a condition specifying the approved plans as this provides certainty. I am also satisfied that conditions are necessary regarding materials, existing and proposed ground levels and the provision of a continuous solid fence during demolition and construction and have incorporated the requirement for the fence into a condition regarding a Construction Method Statement. These conditions are necessary in order to ensure adequate parking facilities within the site and having regard to highway safety and the character and appearance of the area.
28. I have also imposed a condition requiring an assessment of any contamination on the site and implementation of remediation works if necessary and a condition requiring details of surface water drainage. This is having regard to the previous use of the site as a car park and to ensure adequate drainage facilities. Though I note that a surface water drainage assessment was submitted with the application, it is stated within it that it is only a preliminary assessment and that it should be revised at detailed design stage. Finally I have imposed a condition regarding noise levels within the apartments. This is having regard to the recommendation of the Council's Environmental Health department and to the proximity of the appeal site to commercial uses including a nearby restaurant.

29. The nature of the works and information required by the conditions relating to the construction method statement, levels, noise, contamination and frontage fencing means that the works/information needs to be carried out/submitted before works commence on site.

Conclusion

30. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0001, 0002B, 0003B, 0011C, 0012E, 0101D, 0102A, 0103A, 0104A, 0105A, 0106A, 0201C, 0202B, 0203C, 0204B, 0210, 0301B and 0302B.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
(i) the erection and maintenance of a continuous solid fence, which shall remain in place until site clearance and building works have been completed;
(ii) location of site huts and storage of plant and materials used in constructing the development;
(iii) the parking of vehicles of site operatives.
The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until full details of the proposed finished floor levels of all buildings and the finished ground levels of the site, in relation to existing site levels and surrounding property have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 6) Construction work shall not begin until a scheme for protecting the proposed apartments from noise from the nearby commercial uses has been submitted to and approved in writing by the local planning authority. No

apartment shall be occupied until all works which form part of the scheme for that apartment have been completed.

- 7) The building hereby permitted shall not be brought into use until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 8) The apartments shall not be occupied until the parking spaces for the development have been provided in accordance with the approved plans. The car parking shall be permanently retained thereafter.
- 9) No development shall take place above damp proof course level of the apartments hereby approved until details / samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.
- 10) No development shall take place above damp proof course level of the apartments hereby approved until details of cycle parking have been submitted to and approved in writing by the local planning authority. The cycle parking shall be provided in accordance with the approved details prior to the occupation of the apartments and permanently retained thereafter.