

Appeal Decision

Site visit carried out on 4 January 2017

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 25 January 2017

Appeal Ref: APP/P0240/W/16/3150088

55 Jeans Way, Dunstable, Central Bedfordshire LU5 4PW

- 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 J Edwards against the decision of Central Bedfordshire Council.
 - The application No CB/15/03281/FULL, dated 1 September 2015, was refused by a notice dated 11 November 2015.
 - The development proposed is the construction of 1 one-bedroom detached dwelling following demolition of attached garage.
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Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for the construction of 1 one-bedroom detached dwelling following demolition of attached garage at 55 Jeans Way, Dunstable, Central Bedfordshire LU5 4PW in accordance with the terms of the application, No CB/15/03281/FULL, dated 1 September 2015, subject to the conditions set out in the attached schedule.

Main Issues

2. These relate to the effect of the development proposed on the character and appearance of the surrounding area; the effect on the living conditions of the occupiers of 42 Kingsbury Avenue having particular regard to outlook; and whether acceptable living conditions would be provided both for the occupiers of 55 Jeans Way and for future occupiers of the proposed dwelling, in terms of amenity space provision.

Reasons

Character and Appearance

3. The appeal property comprises a two-storey semi-detached dwelling with a single garage/store attached to the side, which is set back largely behind the rear wall of the host property. It is proposed to demolish the garage and to erect a modest two-storey one bedroom detached dwelling to the side of No 55. The appeal site lies within an established residential area. The Council confirms, in this regard, that there is no objection in principle to the development proposed.
 4. Jeans Way is characterised predominantly by two-storey semi-detached properties of varied design, the pairs of dwellings being separated by gaps of varying width at ground and first floor levels. The variation in the gaps is a combination of the designed estate layout and extensions to the side of some
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properties. However, the pair of dwellings that comprises the appeal property and its adjoining neighbour (No 57) are on differently proportioned plots from other dwellings in the area: whilst other properties are on longer narrower plots, the plots for Nos 55 and 57 are, with rear garden lengths of some 5.7 metres,¹ much shorter, backing onto the side boundary of 42 Kingsbury Avenue, and occupy materially wider plots.

5. Taking advantage of its wider plot, No 57, a corner property, located at the junction of Kingsbury Avenue with Jeans Way, benefits from a substantial two-storey side extension. The spacing between the flank wall of No 55 and the flank wall of No 53 (the adjacent property to the other side of the appeal site) is in the region of some 10.5 metres, more than twice the typical spacing between properties in the locality.² As such, the appeal site is unusual within the street scene.
6. The proposed dwelling would have a width of some 5.4 metres. It would be set 1.5 metres away from the side of the host property, and 1.5 metres away from the single storey garage to the side of No 53, some 4 metres from the flank wall to that dwelling. Whilst the resultant spacing between the existing properties would be less than is generally the case in the locality, I consider that the separation would be sufficient to ensure that the dwelling was not seen as cramped on its plot when viewed from the street, and it would not be perceived as 'terracing'. The front and rear walls would align with the host property and it would have a pitched roof with gable ends, mirroring the existing dwelling, as would the eaves and ridge height. The fenestration to the front would also reflect that of the adjacent properties. Moreover, whilst the garden area for the dwelling proposed would be smaller than others in the locality, as is the existing rear garden to the host property, it is located to the rear of the dwelling. As such it would not be readily perceived from Jeans Way and there would be no impact on the character or appearance of the area in this regard.
7. The submitted plans show that whilst two parking spaces would be located to the front of the host property, an area of lawn would be retained. In addition, whilst a single parking space is shown to the front of the proposed dwelling, the majority of the frontage would be lawned. Whilst the new dwelling would require an additional crossover within the wide grassed highway verge to the front, that reflects the existing arrangement for the other properties here. The crossover for the host property would also be widened but again, I find no material harm in this regard.
8. Whilst the dwelling proposed would be a detached, as opposed to semi-detached property, it makes good use of the available space. Its siting and detailed design respond well to the street scene and I am satisfied that it would not be seen as a jarring or obtrusive feature and there would be no material harm to the established character and appearance of the area. There would be no conflict therefore, with the National Planning Policy Framework (the Framework) with saved policies BE8 and H2 of the South Bedfordshire Local Plan Review (January 2004), or with Section 5 of the Central Bedfordshire Design Guide (2014) which, together and among other things, seek to protect such interests.

¹ As set out in the officer's report and the Council's statement

² Figures taken from the officer's report

Living Conditions

Outlook

The rear of the appeal site backs onto the side (southern) boundary of the rear garden to No 42 Kingsbury Avenue. As noted in the Council's statement, there is some vegetation along the shared boundary which limits views of the host property. It goes on to suggest, however, that the gap between Nos 55 and 53 Jeans Way provides a sense of openness along the boundary.

9. Whilst that spacing might well be evident, I am mindful that it is at the far end of the garden and that the proposed dwelling would be at least 12 metres away from the rear conservatory (the nearest part of the adjacent dwelling)³ the host dwelling being much closer. Moreover, the dwelling proposed would be no nearer the shared garden boundary than the main rear elevations of No 55 Jeans Way and, as noted above, it would have a width of just 5.4 metres and would be no higher than the existing property.
10. After careful consideration, and recognising that the appeal site lies to the south of No 42, I am satisfied that in its context, whilst the dwelling proposed would be visible from the rear windows and rear garden of No 42 Kingsbury Avenue, and to some extent from No 40, it would not be seen as unduly dominant or overbearing and the existing properties would not be cramped or hemmed in. As a consequence, there would be no material harm to the living conditions of adjoining occupiers in terms of their outlook. There would be no conflict, in this regard, with the Framework, with saved policies BE8 and H2 of the South Bedfordshire Local Plan Review, or with Section 5 of the Central Bedfordshire Design Guide which, together and among other things, seek to ensure a good standard of amenity for residents.

Amenity Space

11. The development proposed would leave the host property with some 49 square metres of amenity space at the rear (larger than was the case with the previously refused schemes)⁴ with the new dwelling having some 37 square metres of amenity space to the rear. Among other things, Section 5 of the Central Bedfordshire Design Guide sets out minimum external space standards for properties with two or more bedrooms.
12. For three bedroom dwellings, the Design Guide indicates a minimum garden depth of 12 metres and an area of at least 60 square metres, although it acknowledges that whilst ideally both should be met, it might be the case in relation to infill development (such as that proposed) that this may not be possible. In those circumstances, it suggests that one of the standards should be met as a minimum. In this case, No 55 Jeans Way has an existing rear garden depth of 5.7 metres. Moreover, the space to the side, on which the proposed dwelling would be sited, is largely separated from the main rear garden area by the garage which projects to the rear of the property. Its location means that it is exposed to public view, which significantly limits its usefulness and value as private amenity space. I am also mindful that removal of the existing garage to facilitate the proposed dwelling would result in a small increase in the extent of useable garden space at the rear of the host property.

³ As set out in the officer's report

⁴ As set out in the officer's report, there is a history of unsuccessful applications for the erection of a dwelling on this site.

On balance, having regard to the existing arrangement, whilst there would be conflict with the Council's guidance, I am satisfied that the development proposed would not make matters materially worse for occupiers of the host property in terms of private amenity space provision and I find no harm in this regard.

13. There is no minimum external space requirement in relation to one bedroom properties, such as that proposed. Whilst the rear garden space for future occupiers would be restricted, the space available would be private and, in the absence of any substantiated evidence to the contrary, I see no reason to suppose that it would not be sufficient to provide sitting out space, a clothes drying area, and space for planting etc. In fact, it appears to be not dissimilar to the space currently available to the rear of No 55, as enclosed by the projecting garage. There is no suggestion that the living conditions of existing occupiers are unduly compromised in this regard.
14. To conclude on this issue, I find that living conditions for occupiers of both the host dwelling and that proposed would be acceptable in terms of amenity space provision. There would be no conflict, therefore, with the Framework, with saved policies BE8 and H2 of the South Bedfordshire Local Plan Review, or with Section 5 of the Central Bedfordshire Design Guide which, together and among other things, seek to ensure a good standard of amenity for existing and future residents.

Other Matters

15. The occupiers of Nos 40 and 42 Kingsbury Avenue expressed concern in relation to loss of light, overlooking and loss of views. These matters were addressed in the officer's report and I have no reason to disagree with the reasoning therein or the conclusion reached that there would be no material harm in these regards.

Conclusion

16. I have found no harm to the established character and appearance of the area or to the living conditions of adjoining occupiers. Whilst there would be conflict with the Council's amenity space standards, as set out in its Design Guide, I have found that occupiers of the host property and that proposed would, nevertheless, be provided with acceptable living conditions in this regard. All in all, I have found no conflict with the development plan. Therefore, for the reasons set out above, I conclude that the appeal should succeed.
17. I have had regard to the conditions set out in the officer's report. In addition to the standard time limit on the commencement of development, a condition specifying the relevant plans is necessary in order to provide certainty. There is no need however, to include the plans showing the existing layout.
18. A condition relating to external materials is necessary in the interest of visual amenity.
19. In relation to the parking spaces at both the host property and that proposed it is necessary, in the interest of visual amenity, to secure details of surfacing materials and, in the interest of highway safety, to secure details of surface water drainage and to ensure that the spaces are in place prior to occupation of the new dwelling. In the interest of highway safety, details of the junction of the proposed crossovers with Jeans Way are required. In addition, in the interest of pedestrian safety, it is also necessary to ensure that visibility splays

at the junction of the parking spaces with the footway are provided and maintained.

20. I am not persuaded however, that a condition requiring dedicated cycle storage is necessary in this instance, the submitted plans showing sufficient space at the side of the dwelling, for example, to accommodate storage.
21. Given the constraints of the appeal site, the suggested condition requiring the provision of on-site parking for construction workers and deliveries is impractical. Neither is it clear what measures are envisaged on this small site to prevent debris during construction from being deposited on the highway. The scheme relates to a single dwelling. As such, I am not persuaded that any disturbance during the construction process would present a material risk to highway safety.
22. The rear elevation of the permitted dwelling would be some 5.7 metres from the side boundary of the garden to No 42 Kingsbury Avenue. The submitted plans show that the only first floor window in the rear elevation would be to a bathroom. In order to ensure the privacy of adjoining occupiers, it is necessary to ensure that the window remains as obscure glazed and to control opening lights within the window. For the same reasons, it is necessary to remove permitted development rights to prevent the addition of further windows within the first floor rear facing elevation or the addition of dormer windows within the rear facing roof slope.

Jennifer A Vyse
INSPECTOR

Schedule of conditions
Appeal Ref: APP/P0240/W/16/3150088
55 Jeans Way, Dunstable, Central Bedfordshire

- 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 details shown on the following submitted plans: 55/1BED-D/02; 55/1BED-D/04/R1; 55/1BED-D/05; and 55/1BED-D/06/R1.
- 3) Development shall not commence until details of all external facing materials have been submitted to and approved by the local planning authority in writing. Development shall be carried out in accordance with the approved details.
- 4) The dwelling hereby permitted shall not be occupied unless and until the on-site parking space for that property, and the two spaces for No 55 Jeans Way, as shown on plan No 55/1BED-D/04/R1 have been laid out and provided with surface water drainage, and the access drives across the grassed verge to Jeans Way to those spaces have been constructed with a maximum gradient of 10% (1 in 10), all in accordance with details that shall have previously been submitted to and approved in writing by the local planning authority.
- 5) Visibility splays, measuring 2.8 metres along the back edge of the footway from the centreline of the anticipated vehicle path to a point 2 metres measured from the back edge of the footway into the site along

the centreline of the anticipated vehicle path at each side of the junction with the footway of the on-site parking space for the property hereby permitted and of the spaces for No 55 Jeans Way, shall be provided before the respective space is brought into use. Thereafter, the visibility splays so provided shall be maintained free of any obstruction to visibility exceeding a height of 0.6 metres above the adjoining footway level.

- 6) Prior to first occupation of the dwelling hereby permitted, the first floor rear facing bathroom window shown on the approved plans shall be fitted with obscure glazing and shall be retained as such thereafter. Any opening lights fitted shall accord with details that have previously been submitted to and approved in writing by the local planning authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no rear facing windows, other than those expressly authorised by this permission, shall be constructed at first floor level, nor shall any dormer windows be constructed within the rear facing roof slope.

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