
Appeal Decision

Site visit made on 22 May 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 1st June 2017

Appeal Ref: APP/P0240/W/17/3167928

Tyler House, Creasey Park Drive, Dunstable LU6 1BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Aldridge against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/03619/OUT, dated 9 August 2016, was refused by notice dated 19 December 2016.
 - The development proposed is erection of an extension and the creation of an additional floor to provide eighteen (18x) apartments and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with access to be considered at this stage. However, the application form states that of the 18 apartments to be provided, there would be an equal split between 1 and 2 bedroom units. Given that this was the scheme on which the Council made its decision, I have determined the appeal on the same basis. I have also had regard to the indicative layout shown on the submitted plans.

Main Issues

3. The main issues in this appeal are (i) whether the proposal would provide acceptable living conditions for future occupiers with regard to parking, outdoor amenity space and noise; (ii) its effects on the safe and efficient operation of the highway network in the vicinity of the appeal site; and (iii) whether a planning obligation that makes provision for affordable housing is reasonable and necessary to make the proposed development acceptable in planning terms.

Reasons

Living conditions - parking

4. The appeal site is located on the northern side of Creasey Park Drive at the end of a no through road. It is surrounded by residential and industrial land uses and is also next to the Dunstable Town Football Club site. The existing two-storey building on the appeal site comprises offices with ancillary workshops and storage.
 5. A total of 21 car parking spaces would be provided within the site. The Council considers that this would represent a shortfall in the required number of spaces
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based on the minimum parking standards set out in the Central Bedfordshire Design Guide (2014) (the Design Guide). The Design Guide says that a 2 bedroom apartment should be served by two parking spaces, with one space for 1 bedroom units. In addition, provision for visitor parking is required at an equivalent rate of 0.25 spaces per unit. The proposal therefore falls short of the Design Guide's requirements.

6. I accept that the site is well served by public transport and is next to a National Cycle Network Route. However, there can be no absolute certainty that future occupants would not have personal transport and in any case, there is nothing to prevent them from doing so. In my view the proposed level of car parking would be extremely likely to result in a number of future residents and their visitors having to park elsewhere.
7. Although there is some scope for on-street parking in Creasey Park Drive, the need for some residents to park away from their apartments while others would be unfettered by such a requirement, to me demonstrates a deficiency in the design of the scheme.
8. I note the Inspector's decision in relation to a previous appeal¹ on this site. However, that decision was made at a time when the Council applied maximum parking standards. That has now changed and the Framework is clear that arbitrarily restricting new off-street parking spaces does not reduce car use but leads to parking misery. The government therefore abolished maximum parking standards in 2011. The Council's parking standards within the Design Guide align closely with national policy. Moreover, I have no substantive evidence to suggest that the Design Guide did not follow a proper process of public consultation and therefore give it and its relevant standards very substantial weight.
9. The appellant argues that the level of car ownership in the local area is low. However, no empirical evidence has been provided to support this claim notwithstanding that this does not in itself justify a lower level of parking provision. Moreover, the application of a different standard for a particular place within the Council's administrative area would in my view undermine the purposes of the development plan.
10. For the above reasons, the proposal would not provide a satisfactory living environment for its occupiers, counter to saved Policy BE8 of the South Bedfordshire Local Plan Review (2004) (LP), which amongst other things, seeks to avoid adverse effects on residential amenity. This Policy is aimed at ensuring good design and it therefore aligns with that corresponding requirement of the National Planning Policy Framework (the Framework). I therefore give it very substantial weight.

Living conditions –amenity space

11. Although the application is in outline and that the detailed layout would be resolved at reserved matters stage, the indicative plans show an area of private amenity space located at the northern end of the site. Given that the proposal sets out the number of parking spaces to be provided and is somewhat governed by the positioning of the building, it therefore seems unlikely, given these constraints that the amenity space could be of

¹ Ref APP/N0220/A/07/2143946

substantially greater area than that indicated. Accordingly, I consider the indicative layout is representative of the likely form the development would take in practicality.

12. Notwithstanding this, there is dispute between the parties over the calculation of the area of amenity space. The appellant suggests that an area of 115 sqm would be provided, which would accord the Design Guide requirement. However, the appellant's calculation does not appear to be borne out on the submitted plans when the size of the amenity space is judged against that of the adjacent parking spaces. I therefore consider the Council's calculation of about 59 sqm to be more accurate. Consequently, the proposed amount of amenity space would be substantially less than required for a development of this size and type.
13. It is evident that the proposal is unable to accommodate the level of parking proposed and provide an adequate area of private amenity space. This also points to the unacceptability of the proposal when assessed against the requirements of saved LP Policy BE8.

Living conditions - noise

14. The appeal site is located next to an industrial area with the closest building being in B1 use. Such a use is acceptable within a residential environment. However, the Council is currently considering an application for a change of use of this unit to B8 use and argues that this could present noise issues for future occupants. I accept that new residential development in close proximity to such a use might encourage complaints from its occupiers, thus potentially constraining the ability of the B8 occupier to carry on the business without otherwise unnecessary restriction.
15. However, there is no certainty that the Council will approve the application and I have no evidence to indicate which way its decision may go. I must determine the application based on the current circumstances and at my site visit, there appeared to be no significant issues with noise emanating from the industrial units.
16. I do not therefore find that the proposal would result in harm to living conditions through an unacceptable level of noise. Thus, the proposal would not conflict with saved LP Policy E2 that seeks to prevent development unacceptably prejudicing or being prejudiced by adjoining land uses. This saved Policy also aligns with the Framework requirement for good design and attracts very substantial weight.

Highway safety

17. As I have already mentioned, the proposal would be likely to result in overspill parking in Creasey Park Drive. In the area around the site access, parking restrictions apply by way of double yellow lines. Whilst there is on-street parking availability further along the street, a number of properties have garages and parking areas facing Creasey Park Drive.
18. In addition, there is no turning head proposed within the site and it is therefore reasonable to conclude that larger vehicles would either enter it forwards and exit in reverse or attempt to turn at the end of the road before reversing into the site. The restricted space at the end of Creasey Park Drive and the proximity of the access to the large football club car park would present a

significant hazard to drivers and pedestrians regardless of which option was chosen for entering and exiting the proposed development.

19. Accordingly, the proposal would result in harm to the safe and efficient operation of the highway network in the vicinity of the appeal site and have an unacceptable effect on the local environment, counter to saved LP Policy BE8. It would also conflict with the transport objectives of the Framework and in particular, the requirement at paragraph 32 that plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people.

Affordable housing

20. The appellant disputes that a planning obligation is reasonable and necessary and I therefore have no such document before me. The Council has adopted a Guidance Note on Affordable Housing (2016) (the Guidance Note) to cover the period until such time as the Central Bedfordshire Local Plan reaches submission stage and thus its affordable housing policy carries sufficient weight.
21. The Council suggests that the provision of a planning obligation is a matter that could be secured by means of a condition and my attention has been drawn to a previous application where this mechanism was used. However, Planning Practice Guidance (PPG) is clear that although a negatively worded condition may be used to require an applicant to enter into a planning obligation, this is unlikely to be appropriate in the majority of cases. It goes on to say that this may be appropriate in the case of more complex and strategically important development where there is clear evidence that its delivery would otherwise be at serious risk². It cannot reasonably be concluded that the proposal before me falls into that category and therefore, the use of a condition as suggested would not meet the relevant tests. Moreover, heads of terms have not been agreed in advance as also required by PPG in the circumstance where the use of a condition would be appropriate.
22. Notwithstanding this, although LP Policy H4 is a saved policy, its age means that it is not based on up-to-date evidence of housing need. It is therefore out of kilter with the evidence base requirements set out in paragraph 47 of the Framework. Moreover, the Guidance Note does not take into account the updated thresholds for affordable housing in PPG resulting from the Written Ministerial Statement of 28 November 2014.
23. I do not therefore consider that the requirement for a planning obligation is justified by the development plan and thus it is not reasonable or necessary to make the development acceptable in planning terms.

Other Matter

24. The appellant suggests that the Council is unable to demonstrate a 5 year housing land supply (HLS). This has not been disputed by the Council. However even were I to consider the Council's relevant policies for the supply of housing to be out-of-date, the development plan remains the starting point for my decision and weight can be apportioned to its policies according to their degree of consistency with the Framework. I have already identified the weight to be given to the relevant saved LP Policies in my considerations on the main issues.

² Paragraph: 010 Reference ID: 21a-010-20140306

In any case, I do not consider them to be policies related to the supply of housing.

25. Moreover, the clear and demonstrable harms that I have identified do not in my view equate to the proposal being sustainable development when the Framework is taken as a whole.

Conclusion

26. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector