
Appeal Decision

Site visit made on 24 May 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 23 June 2017

Appeal Ref: APP/Y0435/W/16/3168089

20 Hockliffe Brae, Walnut Tree, Milton Keynes MK7 7BQ

- 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 Andrew Elderton against the decision of Milton Keynes Council.
 - The application Ref 16/02482/FUL, dated 30 August 2016, was refused by notice dated 8 November 2016.
 - The development proposed is described as 'proposed new retirement bungalow on Twyford Lane built on existing plot of Nr 20 Hockliffe Brae, Walnut Tree, Milton Keynes.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has been in discussions with the Highways Authority (HA) with regard to a design for the vehicle cross over to facilitate a new access that would serve the existing dwelling at Number 20 Hockliffe Brae. This was in response to the Council's concern that the proposed development would not provide for an adequately functioning access and result in verge compaction.
 3. The result of these discussions appears to be an agreement in principle between the appellant and the HA that the required specification can be achieved. The Council have seen the appellant's comments in this regard. Whilst a planning appeal should not be used as a vehicle to evolve a development proposal, it is clear that additional discussion between the relevant parties would have been required to seek address of the Council's concerns in this regard. Taking all of the above into account, I do not consider that any party would be prejudiced by my acceptance of this situation in my findings on the appeal before me.
 4. The appellant also states that a revised site layout plan with an amended garden boundary was submitted and accepted by the Council but this is not listed on their decision notice as having been considered. Their concerns in this respect appear to remain in the presentation of their case. I have therefore determined this appeal on the basis of the plans that the Council confirm were before them. Specifically, those listed on the decision notice.
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Main Issues

5. With the above in mind, there remain two main issues in the determination of this appeal. These are the effect of the proposed development on a) the character and appearance of the area and b) the living conditions of future and existing occupiers.

Reasons

Character and Appearance

6. The appeal site is part of the rear garden and access to the garage belonging to Number 20 Hockliffe Brae. It faces Twyford Lane from where the proposed bungalow would be accessed and is mostly laid to hard standing. It forms a defined gap between the rear elevation of No 20 and the frontages of detached dwellings that face Twyford Lane. There is a lack of formality to the character of built form at this point which consists of two storey dwellings and single storey garages. There is however a spacious feel to the vehicle access and circulation areas and occasional tree and hedge planting to boundaries and the highway verge.
7. Whilst being single storey and thus not an alien building to the street scene, the bungalow would be located forward of the other surrounding single storey structures. It would therefore be more prominent. It would have the appearance of a primary building of a standalone use rather than an ancillary outbuilding, contained as it would be within its own demarcated curtilage which would include parked vehicles and a garden. When taking these factors together, the proposed development would appear cramped and significantly reduce the spacious character of the street scene at this point.
8. I note there is also concern from the Council with regard to the loss of trees in the public highway and the subsequent effect this would have on the character and appearance of the area. It would appear that there would be some effect on existing trees in the highway, two in particular, as a result of the proposed new access to serve the existing dwelling.
9. The evidence suggests that the appellant and the Highway Authority (HA) have reached an agreement in principle with regard to a specification for new tree planting in their discussions on the suitability of the proposed access. It is implied that this specification is acceptable to the Council's Landscape Architect. I agree with the Council that the existing trees do contribute to the character and appearance of the area but equally I do not consider that they are so significant in themselves to mean they are sacrosanct and that their loss would be fundamental. Particularly if suitable replacements could be agreed which would assist in maintaining the leafy feel to the area.
10. Whilst I note the Council's comment with regard to the lack of an appropriate legal mechanism to secure this, a suitably worded planning condition in the Grampian style could reasonably restrict the commencement of development until such additional planting in the highway is agreed and implemented at an appropriate time. This is despite the land concerned being outside of the ownership of the appellant.
11. This approach is reasonable and enforceable given that it is within the appellant's ability to agree a suitable scheme with the HA. Development would be delayed until that scheme is agreed and presented to the Council. The

same approach is sometimes used in situations where other works outside of the land ownership of the appellant, and the defined 'red or blue line' site boundaries, are required to make the development acceptable in planning terms.

12. The ability to be able to achieve this aside, I remain concerned that it would not be sufficient to make up for the other shortcomings of the proposed development with regard to this main issue. Specifically the harm that it's siting and layout would cause to the character and appearance of the area.
13. The proposed development would therefore conflict with saved Policies D1 and D2 of the Local Plan¹. These Policies, amongst other things and along with section 7 of the Framework², seek to ensure high quality and contextually appropriate design and appearance to new development and safeguard the environment from unacceptable visual intrusion.

Living Conditions

14. The proposed bungalow would be, by its very nature, single storey. There would be windows to all four elevations. It would be erected to the south of the existing dwelling at No 20, and to the north of Nos 2 and 4 Twyford Lane. It would face rearwards towards the garden boundary that currently exists between No 20 and No 1 Meadowsweet. Part of this would become the rearmost boundary to the bungalow's rear garden.
15. The single and only window to bedroom 1 of the proposed bungalow would directly face and be in close proximity to a boundary fence which would have to be sufficiently high to restrict any overlooking into the neighbouring garden. The outlook from this window would be oppressive as a result of these factors and therefore of an unacceptably poor standard.
16. The parking area for the existing dwelling (No 20) would occupy almost the entire length of the north elevation of the bungalow and directly abut one of the windows to the living space. This would have the potential to create noise disturbance from comings and goings outside of occupiers' control. In addition, the proposed rear garden would be contextually very small and hemmed in by virtue of its narrowness, lack of depth and a garage that would remain to its southern boundary. Notwithstanding the reduced expectation for garden space when it comes to bungalows more generally, I am concerned that users of the garden space would experience an enclosed environment, lacking in quality as usable, private outdoor space.
17. Whilst filling a defined gap between the existing dwellings, the single storey design of the bungalow would restrict any overlooking to neighbouring gardens when taking into account existing boundary treatment and that which could be reasonably agreed by planning condition. There would be some effect on the outlook from the rear windows of No 20 but the distance between it and the proposed building would be sufficient for this not to result in an overbearing effect or an unacceptable level of outlook.
18. In respect of No 1 Meadowsweet, I do not consider that the proposed development would result in a hemmed in feel for occupiers. The bungalow

¹ Milton Keynes Council Local Plan 2001-2011: Adopted 2005

² The National Planning Policy Framework 2012

would be set quite far forward in its plot and the garden to garden relationship would be the same as it is now.

19. I have found that the proposed development would not cause harm to the living conditions of existing occupiers. This does not however reduce the harm that it would cause to its future occupiers in the manner that I have set out above. For these reasons, the proposed development would conflict with saved Policy D1 of the Local Plan. This policy, amongst other things and along with one of the core principles of the Framework, seeks to ensure a good standard of amenity for existing and future occupiers of land and buildings.

Other Matters

20. The Council confirm that they are unable to demonstrate the supply of housing sites as required by the Framework. The appellant further states that the Council are a consistent under performer with regard to housing delivery generally. Whilst this situation would render development plan policies relevant to the supply of housing out of date, the policies quoted by the Council and referred to in my decision are not concerned primarily with this matter, focussed as they are on matters of design quality, character and living conditions. Further, the proposed development is for a single dwelling only which would make a very limited contribution to an undersupply situation. The benefits it would bring would be equally limited in their scale and type. Such benefits would therefore unlikely outweigh the harm that I have found in more than one respect.
21. I note the appellant's reasoning for the proposed development as a retirement property and their wishes to remain in the area. There also appears to be a shortfall of such accommodation locally. I also have regard to the personal circumstances regarding the appellant's medical condition that has been presented. Whilst I do not dispute these matters, I have no compelling evidence before me as to why the bungalow needs to be in the exact location proposed and moreover precisely why the stated medical condition requires single storey living. I have no further evidence as to precisely what the provision of similar accommodation is locally. The appellant also advances that the bungalow would also suit a starter home for a young couple which somewhat lessens further the weight that I can ascribe to the circumstances that I have before me. These circumstances are not therefore persuasive enough to weigh sufficiently in favour of the proposed development such that it would outweigh the harm that I have identified.
22. Occupiers of the bungalow would have direct access to a range of services that could be reached via sustainable means. This would however have to be the case for the principle of the development to be acceptable in any event. The appellant also states that the proposed development would release one local affordable house for renting but I have no scheme before me to confirm that either dwelling would be secured as affordable housing going forward.

Conclusion

23. The proposed development would not be harmful in respect of the safe use of the public highway and the living conditions of existing occupiers. It would however be so to the living conditions of future occupiers as well as the character and appearance of the area in the manner I have set out above.

Whilst having regard to all other matters that have been raised, it is for these reasons that the appeal is dismissed.

John Morrison

INSPECTOR