
Appeal Decision

Site visit made on 13 June 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 29th June 2017

Appeal Ref: APP/K0235/W/16/3160269

3 Chapel Yard, Pertenhall, Bedford MK44 2AN

- 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 & Mrs D Buchanan against the decision of Bedford Borough Council.
 - The application Ref 16/00528/FUL, dated 25 February 2016, was refused by notice dated 15 September 2016.
 - The development proposed is a replacement dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling and associated works at 3 Chapel Yard, Pertenhall, Bedford MK44 2AN in accordance with the terms of the application, Ref 16/00528/FUL, dated 25 February 2016 subject to the conditions on the attached schedule.

Main Issues

2. The main issues are the effect of the development:
 - On the character and appearance of the area.
 - On the living conditions of adjoining occupiers with particular regard to overlooking and outlook.

Reasons

3. The appeal site contains a detached 2 storey house that has a thatched roof. The site contains two large single storey outbuildings and extends to Kimbolton Road where it is bounded by mature trees and landscaping. Across Kimbolton Road to the west are grade II listed properties known as Wood End Lodge and Wood End House. Lye House, a 2.5 storey dwelling lies north of the appeal site with further dwellings extending northwards. To the south and east of the appeal site are other properties that make up Chapel Yard.
4. The site is within the countryside and has a pleasant rural character. The appeal site is quite large with the current dwelling and outbuildings located in the south east corner. These would be demolished to make way for the proposed dwelling which would be positioned more centrally within the site. The dwelling would be 'L' shaped with parking and turning areas and a private garden.

5. The Council did not raise any objection to the appearance of the proposed dwelling, and I agree with that assessment. It is the scale and layout that are of concern to the Council. The proposed dwelling would be substantially larger than the dwelling it replaces. However, the scale and layout of the building would not result in a building that would dominate the site. Moreover, the scale of the proposed dwelling in relation to its site area would result in a development that sits comfortably within its plot and does not represent a cramped form of development, out of keeping with its surroundings. Consequently, the proposal would introduce a form of development that would secure a high quality and inclusive design that would not harm the rural character and appearance of the area.
6. Turning to the historic character, the Council confirm that the site had an historical use as a Moravian settlement with a chapel, which has since been removed. The site is not within or adjacent to a Conservation Area. The existing dwelling on the site holds little significance as a result of it being heavily altered. Similarly, the other buildings that form Chapel Yard have also been altered and any interest is derived mainly from the association with Chapel Yard, rather than the existing historic fabric of buildings.
7. The immediate setting of the listed buildings is their gardens and beyond these the village and nearby buildings fronting onto Kimbolton Road. However, the impact and importance of adjacent buildings is not considerable in themselves because of the intervening trees and there is no direct historical connection. The trees fronting onto Kimbolton Road would remain and despite a small gap within the tree belt, they would continue to provide effective screening from the listed buildings on the other side of the road. Therefore, I do not find that the proposed dwelling would harm the setting of the listed buildings. Nor do I find that any historic significance at the site would be materially harmed as a result of the development.
8. On the first main issue I conclude that the proposal would not materially harm the character and appearance of the area. The development would therefore comply with Policies BE30 and BE37 of the Bedford Borough Local Plan 2002 (BBLP) and CP21 and CP23 of the Bedford Borough Council Core Strategy 2008 which seek, among other things that new development proposals respect the site's context in terms of layout, scale, massing, materials and its historic features.

Living Conditions

9. The Bedford Borough Council Design Guide (Residential Extensions, New Dwelling and Small Infill Developments adopted January 2000) states that in order to be acceptable, windows should be at least 18 m from neighbouring windows. The proposed development exceeds this measurement for each dwelling that surrounds it. Given the separation distances from surrounding properties, there would be no material harm as a result of overlooking.
10. The rear gardens to No. 4, 5 and The Manse are bounded by a fence or hedge of some 1 m in height. This allows views from the appeal site into adjoining gardens. The window of the master bedroom would be sited some 16 m from the shared boundary. I do not find that the introduction of a window at such a distance would harm the use of the garden to a significant degree.

Furthermore, given the separation distances, the proposed dwelling would not result in an overbearing development to the surrounding properties.

11. On the second main issue I conclude that the proposal would not materially harm the living conditions of adjoining occupiers. The development would therefore comply with Policy BE37 of the BBLP which seeks, among other things, to ensure that developments respect the amenity and privacy presently enjoyed by adjoining occupiers.

Other Matters

12. I have been directed to Policy H28 of the BBLP, by neighbours that are objecting to the proposal, which refers specifically to "Replacement dwellings in the open countryside." Part iv) and v) of the policy states that replacement dwellings in the open countryside will be permitted provided it is of a size and scale similar to that of the original dwelling and respects its siting. I gather from the explanatory text to the policy that this is to protect the loss of smaller dwellings and that new dwellings in themselves result in a loss of rural character. It also states that each case will be considered on its own merits. The replacement dwelling is not within the open countryside as it forms one of group of dwellings. In addition, while the proposed dwelling is of a different scale to the one it replaces, it is acceptable in this location and would not result in any harm to the rural character of the area. I find the lack of harm to the character and appearance of the area a material consideration in favour of the development that outweighs any conflict with Policy H28 of the BBLP.
13. With regard to highway safety and parking, I note that, subject to conditions, the Local Highway Authority did not object to the development. Furthermore, I have seen no evidence that the proposal would materially compromise road safety.
14. The erection of a 1.8 m fence on the shared boundary with No. 4 can be carried out under 'permitted development' rights and does not require planning permission. In addition, granting planning permission does not override existing rights of access over land or utilities. It has also been suggested that bats are resident in the existing outbuildings. The appellant submitted a bat survey to the Council which confirmed that no bats are evident at the site.

Conditions

15. The Council has suggested a number of conditions should I be minded to allow the appeal. I have reworded or deleted them where necessary in the interests of concision and enforceability. Taking account of the nature of the site and its residential surroundings it is necessary to restrict the hours of construction. Given the presence of mature trees on the boundary, protection measures are required. To ensure a satisfactory appearance of the development, details of boundary treatments and samples of materials are required. As there is only one parking space outside of the proposed garages, it is reasonable to restrict the use of the garages for parking of vehicles only. The approved plans should be specified to provide certainty.
16. As this is a development of one dwelling, I do not consider that a Construction Method Statement is required. In addition, as the appellant submitted an Energy Statement which demonstrates that the construction of the dwelling

would achieve a 10% reduction in resource consumption, a condition requiring additional energy savings is not required.

Conclusion

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

Graham Wyatt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: L-01 Rev B, L-02, L-03, L-04 Rev B, L-05 Rev A, L-06, Rev A L-07 and Energy Statement dated February 2016.
- 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Prior to the construction of the dwelling, all the trees on the boundary of Kimbolton Road shall be protected by strong fencing, the location and type to be previously submitted to and approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until construction is complete and all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the garages serving the dwelling hereby approved shall be kept available for parking of cars and shall at no time be converted into living accommodation.
- 6) Demolition or construction works shall take place only between 0800 to 1800 on Mondays to Fridays, and between 0800 and 1330 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority details of boundary treatments for the site. The development shall be carried out in accordance with the approved details.