



Appeal Decision

Site visit made on 9 December 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/K0235/W/19/3237404

Play Area adjoining 21 Battison Street, Bedford, Bedfordshire

- 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 Muzamal Hussain against the decision of Bedford Borough Council.
 - The application Ref 18/01693/OUT, dated 25 June 2018, was refused by notice dated 29 July 2019.
 - The development proposed is described as: 'redevelopment of vacant site to create six one-bed flats'.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of site to create 6 one-bed flats at Play Area adjoining 21 Battinson Street, Bedford, Bedfordshire, in accordance with the terms of the application, Ref: 18/01693/OUT, dated 25 June 2018, subject to the conditions set out at the end of this decision.

Procedural Matters

2. I have used the site address as set out on the Council's Decision Notice and the appeal form, rather than that given on the application form. This is because it accurately and concisely describes the site under consideration. I have also, in the interests of accuracy and to be consistent with the Decision Notice, omitted the word 'vacant' from the description of development given on the application form. This is because there were some hard and soft landscaped features evident on the site during inspection. I have also omitted the post code given, as it does not appear to correlate to the site's location.
3. The appeal proposal is for outline planning permission with the detailed matters of appearance, layout and scale to be determined at this stage and with access and landscaping reserved for future approval. Whilst not formally part of the scheme, I have treated details relating to the matters reserved for future approval submitted with the appeal application as a guide to how the site might be accessed and landscaped.
4. The Bedford Borough Local Plan 2030 Draft Plan for Submission (September 2018) (the emerging BBLP) has been submitted for examination and hearings have occurred. Nonetheless, it is my understanding that the examination/review process has yet to conclude. The emerging BBLP is at a stage that attracts limited weight. This is because the content of its policies

may yet change prior to it being formally adopted. I shall consider the appeal on this basis.

Main Issue

5. The main issue is the effect upon the character and appearance of the area, having particular regard to the proposed type and mix of housing.

Reasons

6. The appeal site, which I understand formerly contained play equipment, is comprised of a mix of hard and soft landscaped areas and is bound by Battison Street to the west and Maitland Street to the east. It would appear that most properties upon these streets are single dwellinghouses and that only a limited number of conversions to flatted accommodation have taken place. The terraces in the area tend to be tightly spaced such that there is a compact residential character and appearance in evidence.
7. Whilst the site currently offers a visual break between buildings in an otherwise tightly developed area, any relief that it provides in this sense is limited due to the site's discreet positioning between neighbouring blocks of terraced development. Indeed, the site is only appreciable from selected viewpoints nearby and it is a space that contributes limited aesthetic value to the area. The proposed buildings would respect the pattern of development that is in place as well as the scale and form of neighbouring properties. The plans indicate that existing front building lines and neighbouring eaves and ridge heights would be closely replicated.
8. The 6 flats that are proposed would each be located across its own single floor of accommodation and a shared communal space would be provided to the rear of each property to the centre of the site. Whilst I acknowledge that concerns have been raised about the suitability of this communal area, I am content that a meaningful area of amenity space would be provided that would appear commensurate to the scale of development that the space would serve. Indeed, this central space would incorporate appropriately sized and designed bin and cycle storage facilities, would be directly addressed by each of the proposed ground floor flats and would be readily accessible by first floor level occupants.
9. The proximity of Battison Street to Maitland Street necessitates that street-fronting development to either side of the site would have a short back-to-back separation distance. Whilst I understand that the site historically contained terraced housing, the size constraints that are apparent do not readily lend the site to accommodating dwellinghouses served by spacious private garden areas capable of satisfying modern space and distance standards/expectations. It is thus reasonable, in my view, that this alternative approach to redeveloping the site (as flats) has been investigated.
10. I note here that interested parties to this appeal have referenced what they consider to be a similar site elsewhere (at Western Street) where infill housing has been proposed. Nevertheless, the full details are not before me and, in any event, I must consider the proposal before me based on its own merits and particular set of site circumstances.
11. Whilst concerns have been raised that the introduction of 6 flats would be harmful to the established character of the area, it is not the case that no flats

exist in the site's vicinity at present. Furthermore, the scale of the development that is proposed is modest and the additional units would not be obviously distinguishable as flats when compared to the existing housing stock that surrounds the site. In this context, the proposal would not have a detrimental effect in character terms.

12. All the intended units would be 1-bed flats. I acknowledge that saved Policy B35 of the Bedford Borough Local Plan (2002) (the Local Plan) states that, amongst other criteria, proposals should make provision for a range of dwelling sizes. However, the appeal site is constrained in the sense that it is of limited size and abutted by existing development. It is reasonable to observe that a mix of dwellings sizes would not be straightforward to achieve whilst being respectful of the existing pattern of development that is in place. Indeed, saved Policy B35 acknowledges that on very small developments a range of dwelling sizes may not be possible.
13. For the above reasons, the proposal would not result in an overdevelopment of the site nor cause harm to the character and appearance of the area, having particular regard to the type and mix of housing proposed. The proposal accords with saved Policies BE35 and BE37 of the Local Plan in so far as these policies require that new development respects the site's context in terms of layout, means of access, building type and density.

Other Matters

14. Policy CP7 of the Core Strategy & Rural Issues Plan (April 2008) (the Core Strategy) requires housing developments to meet the identified needs of the community and, on smaller sites, to contribute to the creation of mixed communities. Policy TC25 of the Bedford Town Centre Area Action Plan (October 2008) (the BTCAAP) promotes a balanced community and requires that the mix and range of housing reflects the needs of the community. Whilst it has been submitted by interested parties that there has been a large increase in the number of flats in the town centre over recent years, any concerns that the proposal would lead to an overconcentration of flats in the site's vicinity or would not suitably respond to the community's needs have not been conclusively evidenced or substantiated.
15. Furthermore, in Borough-wide terms, the Council has confirmed that it can only currently demonstrate a 3.01 year supply of housing land. The proposed flats would contribute towards reducing the housing shortfall and would accord with the aims of the National Planning Policy Framework (February 2019) (the Framework) in terms of boosting the supply of homes. This is a benefit that weighs heavily in favour of the scheme.
16. Policy TC36 of the BTCAAP states that, amongst other provisions, the suitability of redevelopment proposals will be considered in terms of crime prevention and community safety. Saved Policy BE45 of the Local Plan similarly states that planning permission will not be granted without adequate consideration being given to such matters. I understand that the site is in an area of the town that is classified as deprived and that the area is prone to instances of crime and anti-social behaviour. Whilst the proposal would create small properties, I have not been provided with persuasive evidence to demonstrate that the introduction of small flats would necessarily promote such problems, including noise and disturbances, in the area. I acknowledge that the central area of the site would be communally accessible via gated access points, but it would be

- overlooked by various newly proposed window openings and does not offer undue concerns in a crime/anti-social behaviour context.
17. It is not the case that Houses in Multiple Occupation (HMOs) are proposed, the scheme is for 6 self-contained units of living accommodation. Whilst it may be the case that a Council commissioned report has recommended that an Article 4 Direction be made in the area to remove permitted development rights that allow properties to be converted to HMOs, this is of limited relevance to my considerations here. I also note that it is not feasible to dictate, through planning controls, whether properties are owner-occupied or rented privately.
 18. As the site no longer contains play equipment and such facilities are available only a short distance from the site, I see no justification to resist the proposed development on grounds related to any associated loss of recreational facilities. I also note that, whilst there is some planting upon the site, including trees, it is of restricted extent and prominence such that its loss would have a limited effect in either a visual or ecological sense.
 19. It is not intended that off-street car parking be provided. However, the site is located within a controlled parking zone where, as confirmed by the Highway Authority (the HA), residents are not entitled to car parking permits. The site is centrally located only a short walking distance from a wide range of facilities and services. It is also the case that a secure cycle store with 6 stands is proposed on-site. I note that the HA has raised no objection to the principle of providing no car parking and I am satisfied that the proposal is acceptable in a parking context.
 20. The HA has also not raised concerns with respect to the required stopping up of an existing path through the site, which is adopted highway, nor with respect to any potential highway safety issues associated with the construction phase of development. Whilst both Battison Street and Maitland Street are tightly laid out, I am satisfied that construction traffic would be able to safely and appropriately access the site. I also note that it is a relatively small scheme that would not be anticipated to generate a long build-out period.
 21. I am content that the living conditions of neighbouring and future occupiers of the development would be appropriately safeguarded in terms of privacy and any potential loss of light. Indeed, the intended building heights and back-to-back separation distances that would be implemented are similarly replicated elsewhere in the compact urban setting that contains the appeal site.
 22. I also note that the site's ownership is not a factor that effects the planning merits of the scheme that is before me, and that fire safety requirements are covered by the Building Regulations.
 23. The proposal accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

24. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and omitted one related to landscape works. The only pre-commencement condition relates to the submission of reserved matters, which is a standard requirement where outline

planning permission is sought. It was not therefore necessary to attain the appellant's agreement in writing for the imposition of Condition 2.

25. In the interests of certainty, a condition specifying the approved plans is required. In the interests of ensuring an energy-efficient development, a condition is reasonable and necessary to attain the submission of an Energy Statement securing compliance with a previously undertaken Energy Statement. It is not necessary for this new Statement to secure details of how the layout, orientation and design of the development has been influenced because these details are already set out on the approved plans.
26. In the interests of safeguarding the living conditions of neighbouring occupiers, a condition is reasonable and necessary to secure that upper floor side-facing bathroom windows are obscure glazed and non-opening below a 1.7 metre internal height. In the interests of guarding against potential future negative effects upon the character of the area or the living conditions of local occupiers, a condition is reasonable and necessary that withdraws permitted development rights pertaining to the change of use of any of the permitted flats to a property in multiple occupation. I also note here that permitted development rights that pertain to dwellinghouses, including roof alterations, would not apply to flat properties.
27. In the further interests of protecting the character and appearance of the area, a condition is reasonable and necessary to ensure that the external surfaces of the development accord with the supplied details of external finishes. When noting that landscaping is a matter reserved for future approval, it is not necessary to condition future implementation and maintenance arrangements. Indeed, full details of landscaping are not yet apparent.

Conclusion

28. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be carried out in accordance with the following approved plan and document, unless required otherwise by a separate planning condition of this permission: BATT.MAIT.BED.P.R3; Energy Statement (produced by apex home and energy surveyors ltd).
- 2) Development shall not commence until details of the following matters (in respect of which approval is expressly reserved) have been submitted to and approved in writing by the Local Planning Authority: (i) access to the development and (ii) the landscaping of the site. The development shall be carried out in strict accordance with the approved details.

- 3) Application for approval of the reserved matters shall be made to the Local Planning Authority in writing before the expiration of 3 years from the date of this permission.
- 4) The development hereby permitted shall be begun before the expiration of 2 years from the date of the last of the reserved matters to be approved.
- 5) No building shall be occupied until an Energy Statement has been submitted to and approved in writing by the Local Planning Authority relating to the development. The Energy Statement shall include: (i) an assessment of the actual effect on carbon dioxide emissions demonstrating the measures previously set out in an Energy Statement produced at planning application stage (by apex home and energy surveyors ltd) have achieved a reduction of at least 10% in carbon emissions below the normal requirement set by the Building Regulations; (ii) a statement of how the materials used in the development have been influenced by the Energy Statement produced at planning application stage.
- 6) Notwithstanding Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no flat hereby permitted shall be converted to a house/flat in multiple occupation (HMO) (Use Class C4) unless planning permission has first been granted for that purpose.
- 7) The first floor bathroom windows in the side elevations of Units 1 and 4, as depicted on the approved plan, shall contain no means of opening (unless any opening part of the window is at least 1.7 metres above the floor level of the room it serves) and the glass shall be an obscure glazed type of at least level 3 glass as defined in the 'Pilkington Textured Glass Range'. The windows as inserted in accordance with these requirements shall thereafter be retained.
- 8) The materials to be used in the construction of the external surfaces of the development hereby permitted shall accord with the details of external finishes annotated upon the approved plan.