



Appeal Decision

Site visit made on 26 November 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/P0240/W/19/3234498

102 Church Road, Aspley Heath, Milton Keynes MK17 8TR

- 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 Goldcrest Developments (Campbell Park) Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/18/04743/FULL, dated 20 December 2018, was refused by notice dated 16 May 2019.
 - The development proposed is demolition of existing house and its replacement with a residential development consisting of 8 apartments with private and shared landscaped amenity space and a basement car park with vehicular access from Church Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Amended layout plans and a section, Ref 1874_115, were submitted with the appeal. They were presented to offer clarity and address concerns about bin and cycle storage and the underground car park. Whilst the amendments are minor, I understand that the layout plans extend the site on to highway land, beyond the boundary within the site location plan Ref 1874_001. As such, and with regard to the Wheatcroft principles¹, I did not consider these layout plans in my decision. However, I did have regard to the section Ref 1874_115.
3. In its evidence the Council referred to policies within the emerging Central Bedfordshire Local Plan 2035. Whilst this plan has completed Examination in Public, I understand that further modifications are necessary. The Council has not conveyed how this may affect the policies to which it has referred. Given such, they were not determinative in my assessment.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - the effect of the proposal on the character and appearance of the Aspley Heath Conservation Area;
 - the effect of the proposal on the living conditions of neighbouring occupants within The Oaks and 102a Church Road with reference to outlook, privacy and light; and,
 - the effect of the proposal on the safe and efficient use of the highway.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1980)

Reasons

Whether the proposal would be inappropriate development in the Green Belt

5. No 102 Church Road is a large dwelling of Victorian origin set within its own grounds. It is located within the Green Belt. The proposal seeks to demolish the dwelling and replace it with two separate buildings of contemporary design containing a total of 8 apartments. Parking would be contained within an underground car park.
6. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. I consider the most relevant to be that within Paragraph 145 e), which relates to limited infilling in villages.
7. Policy DM6 of the Core Strategy and Development Management Policies (adopted 2009) (CSDMP) accepts the principle of infill development within its defined Green Belt Infill Boundaries. It also requires assessment as to the effect of proposals on the character and appearance of the area. On this basis, I find it to be broadly consistent with the Framework as a whole.
8. The appeal site is located within the Green Belt Infill Boundary for Aspley Heath. Properties here are set in rows fronting Church Road. The appeal site has a large side garden which reads as a vacant plot. Given the circumstances, the replacement of the existing dwelling with two detached buildings sited as proposed would constitute limited infilling in the village.
9. Consequently, the proposal would not be inappropriate development in the Green Belt. It would comply with Policy DM6 of the CSDMP and the Framework insofar as they support limited infilling in villages.

Conservation Area

10. The site is within the Aspley Heath Conservation Area (the CA). As such, I have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. As heritage assets are irreplaceable, any harm or loss requires clear and convincing justification.
11. Church Road is the principal thoroughfare through the CA and defines a great deal of its significance. Within it, impressive trees and hedgerows enclose its linear built form. Whilst many of the buildings are large, the highway is set on a slight ridge, with the dwellings on both its sides on lower land in many cases.
12. The houses typically have a traditional typology, with pitched roofs and gables common. Where buildings extend to three storeys the top floor is usually incorporated into the pitched roof. These attributes ensure that the houses are reposeful and the natural environment respected. Where contemporary remodelling has been executed, it maintains a modesty in scale which ensures the same². I concur that the scene evokes a 'rural settlement atmosphere'.
13. No 102 occupies the southernmost plot on the west of Church Road at the gateway to the CA. It has eleven trees of high or moderate quality, grouped along the west, south west and north east boundary areas. Although the existing dwelling has been degraded by later additions, it has a variable mass and height which gets taller towards its rear. This breaks up its presence and

² Refs CB/13/04441/FULL, CB/17/01877/FULL and CB/18/03950/FULL

allows it to maintain subservience to its sylvan setting. Whilst I accept that the dwelling stands neutrally within the CA³, I find the site to make a positive contribution to the significance of the CA as a whole.

14. The proposed buildings would be contemporary in form and this approach is not in itself unsuited to the CA. However, both buildings would have three fully vertical storeys of accommodation, much of which would contain large apertures. Although their height would be lower than the existing dwelling, they would have an assertive form and a strident vertical emphasis. This would lead them to appear excessively imposing within the CA, incompatible with the otherwise harmonious relationship between the built and natural environments.
15. Given that my concerns relate to the scale and overt design of the scheme, they would not be overcome by any adherence to finish materials present in the area. The effect of the development would not be sufficiently diminished by the stepped siting or design of the buildings, or the associated modest increase in soft landscaping to the front of the site.
16. There is no dispute between the main parties that, with appropriate methods, the construction of the buildings needn't compromise the root systems of existing trees. However, the buildings would offer optimal views and aspect for future residents, particularly at first and second floor levels. These views would be rather dominated by the existing trees which would, in some instances, be very close to windows and balcony areas. The trees could be perceived to pose a risk to property, and would also cast shade into living accommodation, particularly that with a southern aspect⁴. For these reasons I share the Council's concerns that the proposal would place unacceptable pressure on the loss of or reduction to trees in the future. That residents would be aware of the trees prior to purchase offers no control or comfort in this regard.
17. I therefore find that the proposal would have a harmful effect on the character and appearance of the Aspley Heath Conservation Area. It would conflict with the design and heritage aims of Policies DM3, CS14 and CS15 of the CSDMP and the Framework.

Living conditions

18. The Oakes is a dwelling fronting Heath Road, beyond the west boundary of the site. The separation distance between the proposed buildings and The Oaks would ensure no unacceptable harmful effect with regard to outlook or light.
19. However, the northern building would be closer to the shared boundary than the existing dwelling and the southern unit would be closer still. Both would provide overlooking at first floor level and significant overlooking at second floor level from large openings and from decking that would wrap around the south west and north west elevations. Although the areas of decking at the north west of the buildings would be relatively narrow, I cannot rule out that these areas would be used for prolonged periods.
20. Both the main parties have referred to separation distances set out within the Council's Design Guide Supplementary Planning Document (adopted 2014) (DGSDP0). However, this is a technical guidance document and the 21m distance is a 'rule of thumb' not intended to be robustly applied to every

³ As identified in the Heritage Assessment by Heritage Collective (2019)

⁴ As noted in the Tree Survey Report by RGS Arboricultural Consultants (2019)

circumstance. To my mind, the degree of overlooking that would arise would be significant and unacceptable. It would not be adequately mitigated by the intervening boundary trees nor the garage within the grounds of The Oaks.

21. No 102a Church Road is directly to the north of the site. Its flank wall is very close to its boundary with No 102. Within this side elevation it has numerous windows, particularly at ground floor level. At present, the existing dwelling within the appeal site returns inwards towards its rear, allowing reasonable separation between the two houses. Additionally, its upper roofs pitch away from No 102a and there are minimal openings within its facing elevation. This all serves to maintain the living conditions of occupants within No 102a.
22. The northern apartment block has been designed to ensure that overlooking towards No 102a would be minimised. However, unlike the existing dwelling, it would sit in consistently close proximity to No 102a. Given its height and its location due south of No 102a, there would be an inevitable and significant loss of outlook and light to the property. This would not be offset by any modest improvement to light and outlook to windows within No 102a's front elevation. The appellant considers that the scheme would not breach the 45-degree rule set out within the DGSPD, but there is no substantive evidence to that effect.
23. Drawing my findings together on this issue, the proposal would have an unacceptable effect on the living conditions of occupants within The Oaks through loss of privacy and those within 102a Church Road with reference to outlook and light. The proposal would therefore conflict with Policy DM3 of the CSDMP and the Framework insofar as they require development to ensure a suitable standard of amenity for existing residents.

Safe and efficient use of the highway

24. Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
25. Two vehicles passing within the site access appears technically possible. However, the vehicles would be uncomfortably close and it is more likely that vehicles would wait within the public highway to avoid this potential conflict. That being said, Church Road is a residential street with numerous private driveways of varying specification. It seems to me that the potential for this kind of conflict is already common and anticipated within the area.
26. In addition, the appellant's Transport Statement, using the TRICS database, estimates a net gain of 3 vehicular movements in the morning peak and 4 during the afternoon peak. Although I understand the constraints imposed by the narrowness of highway, these additional movements would be modest within the context of Church Road, which I understand serves approximately 270 households in the area⁵.
27. The car park would provide 16 parking spaces, which adheres to the number recommended by the DGSPD. Whilst I agree that the car park entrance and its layout would be constrained, I do not share the view that this would lead to the car park itself being unused. Rather, its quality for future residents would be limited. Although no on-site visitor parking would be provided, the modest

⁵ Aspley Heath Parish Council response to appeal - November 2019

quantum of two visitor spaces required by the DGSPD could be accommodated within the highway, even considering that available on street parking is somewhat limited, particularly at the weekends.

28. Given such, whilst I accept that the scheme would affect the highway network, the residual cumulative impact would not be so detrimental as to be severe. I also see no reason why, with due care and attention, the theoretical movements envisioned by the Council and interested parties could not be carried out safely within the highway.
29. I therefore find that the proposal would have an acceptable effect on the safe and efficient use of the highway network. It would accord with Policy DM3 of the CSDMP and the Framework in this regard.

Other Considerations

30. Permission for 2 dwellings on the appeal site was previously granted under Ref CB/16/00972/FULL and the timeframe to commence that scheme has lapsed. An application for a lawful development certificate to establish commencement of the scheme, Ref CB/19/03377/LDCE, has recently been withdrawn. As such, on the evidence before me, this development represents little more than a theoretical possibility and is not a realistic fallback position at this time. Whilst, as part of the planning history at the site, it is material, it attracted very limited weight in my reasoning.

Planning Balance and Conclusion

31. Although the proposal would not be inappropriate development in the Green Belt and would not prejudice the safe and efficient use of the highway, I have found that it would have a harmful effect on the character and appearance of the CA and the living conditions of neighbouring residents within The Oaks and 102a Church Road.
32. The harm to the CA would be less than substantial. However, any such harm merits great weight in accordance with Paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development.
33. The proposal would contribute 8 new homes to the Council's housing supply. The 2- and 3-bedroom apartments would improve the housing mix in the area. Due to the minor scale of the proposal, this would be a modest public benefit. Although I note the appellant's view that the proposal would offer excellence and make an efficient use of Previously Developed Land, due the harm that would be caused, this is not an opinion I can share. Overall, the modest benefits of the housing would not outweigh the harm to the CA.
34. I therefore find that the proposal would conflict with the development plan when read as a whole and that there are no other considerations, including the Framework, which outweigh the conflict.
35. For the reasons outlined above, and taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR