
Appeal Decision

Site visit made on 10 March 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/P0240/W/19/3243550

Land to side and rear of 9 & 11 Lower Shelton Road, Caulcott, Marston Moretaine MK43 0LN

- 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 Malcolm & Caroline (& Richard) Hawkes (& Garner) against the decision of Central Bedfordshire Council.
 - The application Ref CB/19/01022/FULL, dated 14 February 2019, was refused by notice dated 10 December 2019.
 - The development proposed is erection of 4 new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 new dwellings at Land to side and rear of 9 & 11 Lower Shelton Road, Caulcott, Marston Moretaine MK43 0LN, in accordance with the terms of the application, CB/19/01022/FULL, dated 14 February 2019, subject to the conditions set out at the end of this decision.

Procedural Matters

2. I have used the description of development as stated upon both the Council's Decision Notice and the appeal form, as opposed to that given on the application form. Indeed, it accurately and concisely describes the proposed development that is depicted upon the submitted plans that are before me. I am content that no party with an interest in this appeal is prejudiced by me taking this approach.
3. The Pre-Submission version of the emerging Central Bedfordshire Local Plan 2015-2035 (the CBLP) was submitted to the Secretary of State in April 2018. The Council has indicated that the CBLP is at a stage that attracts limited weight, and I have no reason to disagree.

Main Issues

4. The main issues are:
 - The effect upon the character and appearance of the area; and
 - The effect upon the living conditions of neighbouring residential occupiers, having particular regard to outlook and privacy.

Reasons

Character and appearance

5. The appeal site is comprised of an undeveloped area of land that sits alongside the grounds of several existing residential properties located to its south-eastern boundary. The site's north-western boundary is abutted by a wooded area of land, beyond which there exists a dual carriageway (the A421). To the south-west there is a park/playing fields.
6. Existing housing in the local area is made up of a range of different types and designs. Properties are set upon a variety of different orientations and tend to be tightly spaced such that a mixed and typically compact pattern of residential development can be observed to be in place. For the avoidance of doubt, the layout and density of development at both Snagge Court and Horseshoe Close is wholly relevant when considering the scheme's effect upon the character and appearance of the area.
7. Specific concerns have been raised about the perceived narrowness of the site, which the Council and several interested parties consider would lead to an overly cramped form of development. However, whilst the site is linear in form, I observed a generous degree of separation to be in place between its opposing south-eastern and north-western boundaries. Indeed, the submitted plans indicate that each individual dwelling would be set upon a logically laid out and suitably sized plot.
8. The submitted plans illustrates that ample space for the parking and manoeuvring of vehicles would be provided alongside areas of soft landscaping (including private garden areas). Considering the site's overall size and the makeup of its surroundings, I am satisfied that an appropriate amount of development is intended. The proposal would thus not cause harm to the character and appearance of the area in accordance with Policy DM3 of the Core Strategy and Development Management Policies (November 2009) (the CSDMP) in so far as this policy requires new development to be appropriate in scale and design to its setting.

Living conditions

9. The existing properties in neighbouring Snagge Court, which back on to the site, are served by garden areas of limited area and short length. The site also bounds the side boundary of a neighbouring residential property on Horseshoe Close, which is orientated and positioned such that its flank gable wall closely addresses the appeal site.
10. The Central Bedfordshire Design Guide (September 2014) (the Design Guide), which has been endorsed as Technical Guidance for development management purposes by the Council, sets out that, to ensure visual privacy, a 21m back-to-back separation distance should normally be acceptable between the facing rear elevations of two-storey properties.
11. The pair of semi-detached properties that are proposed to the south-western end of the site would be positioned such that the side-facing flank wall of proposed Plot 3 would face the rear elevations of neighbouring Snagge Court properties. As this would not be a back-to-back relationship, the Design Guide's 21m reference point is of limited relevance. In any event, the south-east-facing flank wall would not contain openings. Outlook from Plot 3 would

be restricted to via its front and rear elevations, which would not face properties in Snagge Court. Any potential views to be provided of existing neighbouring property would be at an oblique angle and adequately restricted. I am satisfied that no undue loss of privacy would be experienced by neighbouring occupiers by virtue of the future occupation of either Plot 3 or Plot 4.

12. Whilst Plot 3 (most particularly the uppermost portion of its flank wall) would be readily visible from neighbouring dwellings in Snagge Court, it would be setback from the appeal site's boundary and would not be of such size or prominence to have an undue effect upon the outlook that would be available from these neighbouring properties and their associated private garden areas. Thus, the proposed semi-detached properties comprising Plots 3 and 4 would not have a harmful overbearing effect.
13. With respect to proposed Plot 2, this would be positioned alongside an existing off-site garage block and would not have a direct back-to-back relationship with the nearest Snagge Court property. It would also be set away from the nearest dwelling in Horseshoe Close. Whilst Plot 2's rear elevation is proposed to contain a single rear-facing window at first floor level (serving a bedroom), this would be positioned to the north-eastern end of the elevation and would afford outlook only at an oblique angle towards the nearest existing properties and their associated garden areas. Whilst I acknowledge the presence of existing patio and conservatory features, I am content that the privacy of neighbouring occupiers would not be unduly affected by Plot 2's future occupation.
14. It is also the case that Plot 2, being a single detached unit of relatively modest proportions, would not cause harm through loss of outlook and would not have an overbearing presence upon the site. Indeed, it would be set slightly back from the site's boundary.
15. With respect to Plot 1, this is proposed to be positioned in alignment with the flank wall of the neighbouring Horseshoe Close property. No rear-facing openings are proposed and the extent of outlook that would be available from this neighbouring property would not be unduly diminished. It would thus not result in any undue loss of privacy or outlook for neighbouring occupiers.
16. For the avoidance of doubt, I am also content that the proposed dwellings would not lead to undue overshadowing to the detriment of living conditions in Snagge Court and Horseshoe Close. This is particularly when noting the relatively modest scale of each two-storey dwelling that is proposed and their setback positions relative to the appeal site's boundary. Whilst there would be potential for some limited sunlight to be obstructed from reaching neighbouring property (most particularly garden areas) during some afternoon and early evening hours, this would not be to an extent that would cause material harm. Indeed, I also note that the Council has not raised specific concerns in an overshadowing context.
17. For the above reasons, the proposal would not cause harm to the living conditions of neighbouring residential occupiers, having particular regard to outlook and privacy. The proposal accords with Policy DM3 of the CSDMP in so far as it requires proposals for new development to respect the amenity of surrounding properties.

Other Matters

18. The site is located within the defined settlement envelope of Marston Moretaine, a Minor Service Centre. Policy DM4 of the CSDMP asserts that, within this defined envelope, housing commensurate with the scale of the settlement will be approved taking account of the local service centre role provided. In this context, the proposal would realistically be expected to maintain/enhance the vitality of the local community. The scale of development intended would not be expected to place undue pressure upon local school and health services and I have not been made aware of any concerns raised by the local education or health authorities.
19. Concerns have been raised as regards the potential for noise and disturbance to occur once the development is occupied, including by virtue of the movement of vehicles and the use of their head lights. However, the proposed development would complement the largely residential character of its surroundings and, given the limited scale of development intended, would not be anticipated to generate high levels of activity to the detriment of the local residential environment. Indeed, notwithstanding the general proximity of intended car parking to the south-eastern boundary of the site, the number of vehicle movements that could realistically be expected to be generated would be relatively low.
20. Numerous interested parties to this appeal have raised concerns about existing car parking arrangements in the local area. Nevertheless, it is apparent that multiple parking spaces are proposed to serve each proposed dwelling in addition to a small number of communal visitor spaces. An appropriate level of parking provision is proposed that would be unlikely to lead to regular additional parking upon Lower Shelton Road. I also note that the intended parking for No 11 Lower Shelton Road would be conveniently sited adjacent to this property's rear garden area.
21. Lower Shelton Road's suitability for providing access to the site has also been questioned. However, from inspection, I am content that the road is of suitable specification for the additional four dwellings that are proposed both during their construction and once occupied. There is no clear reason to anticipate that access for emergency/refuse vehicles would be unduly problematic and the scale of development proposed would be unlikely to lead to damage being caused to the highway during the construction phase. Indeed, the Council's Highway Officer has not raised objections to the scheme. As a further note, from the evidence before me, there is no clear reason to consider that appropriate drainage arrangements could not be installed in line with relevant building regulations.
22. The proposed development accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

23. The Council has suggested a number of conditions that the appellants have 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 have added one related to the withdrawal of the future use of permitted development rights. I have also added conditions having considered the requests made by the Council's

Highways Officer. Pre-commencement conditions have only been applied where agreed to by the appellants in writing and where necessary to guide initial works on site.

24. In the interests of certainty, a condition specifying the approved plans is required. I have considered the submitted Block Plan (October 2019) for illustrative purposes only and have not listed it as an approved plan. The main reason for this is because it depicts bin storage in a position that is inconsistent with other plans. I am content that the suite of approved plans listed below offers appropriate detail and clarity as regards the development permitted.
25. In the interests of protecting the character and appearance of the area, conditions are reasonable and necessary that secure details of external facing materials and of intended landscaping and its future maintenance. Securing full details of hard landscaping would also be in the interests of highway safety. In the interests of safeguarding future living conditions and the visual amenities of the area, a condition is required that secures full details and the subsequent erection of boundary treatments.
26. In line with a request made by the Council's Pollution Officer, a condition securing the implementation of a noise mitigation scheme is also reasonable and necessary in the interests of protecting future occupiers from any undue noise and disturbance due to the proximity of the A421. I note that the Pollution Officer has confirmed that the noise assessment work already carried out to this point is adequate. Indeed, the site is setback from the A421 and I am sufficiently satisfied that appropriate future opportunities to guard against the effects of traffic noise exist.
27. The Framework advises that conditions restricting the use of national permitted development rights should not be used unless there is clear justification to do so. Whilst separate planning permission would be required for the future insertion of a non-obscure-glazed upper-floor window within a wall forming a side elevation, the same restrictions would not apply to rear facing elevations/roof slopes. In the interests of protecting the privacy of adjacent residential occupiers, there is clear justification to withdraw the future use of permitted development rights with respect to the provision of upper-floor rear-facing window openings at Plots 1 and 2. The appellants have confirmed their agreement to this approach.
28. In the interests of promoting biodiversity enhancement, a condition is reasonable and necessary that secures the submission and subsequent implementation of an Ecological Enhancement Plan (EEP) at the site. This is following on from a Preliminary Ecological Appraisal (May 2019) (the PEA) that identifies various preliminary recommendations to be carried out. These include measures for the protection of adjacent woodland and the enhancement of the site's southern hedgerow through the planting of native species. The PEA has identified that all existing habitats on site are of little ecological value in the wider landscape, which I am content is the case following my inspection. In this context I am satisfied that an EEP would provide adequate and appropriate assurances that biodiversity would be safeguarded and indeed enhanced. I am also satisfied from inspection that any potential works required to cutback vegetation overhanging the site would be minimal in extent.

29. A condition to secure the delivery of an electric vehicle charging scheme would be both reasonable and necessary in the interests of promoting low-emission travel modes. The same condition, in the interests of highway safety and ensuring appropriate on-site parking levels in perpetuity, shall ensure that parking and turning areas are used only for such purposes. Parking areas are clearly depicted upon the Landscaping Plan, and I do not consider it necessary to condition the precise individual measurement of any permitted visitor space.
30. A further condition is reasonable and necessary in the interests of highway safety that requires the approved upgraded access arrangements and refuse collection point to be implemented in full prior to the first occupation of the development. I am satisfied that the intended specification of the collection point is fit-for-purpose to serve a development of four dwellings and do not consider that any slope upon the site is so severe to prejudice the convenient movement of bins back and forth between the permitted dwellings and the collection point. Each individual plot would be served by private garden space and the associated opportunity to store bins. I am also content that the use of the vehicular access would not prejudice the safety of users of adjacent footpaths.
31. In the interests of protecting the living conditions of neighbouring occupiers during construction, a condition is required that secures compliance with the Council's Construction Code of Practice (including acceptable hours of work). I note that this Code covers various requirements and expectations as regards vehicle movements, access, parking, site deliveries and the prevention of mud on the road.
32. A condition stating the permitted maximum gradient of the vehicular access from the highway is appropriate in the interests of highway safety. However, I do not consider it necessary to impose a condition securing vision splays to individual plots that would be set away from the public highway, particularly given the small size of the proposed development and the anticipated setback positioning of boundary treatments relative to the alignment of the shared private driveway (as indicated upon the approved Landscaping Plan). Each plot would be served by its own private and relatively spacious external area that could be used for the safe storage of cycles and I do not consider it necessary to secure further details of intended cycle storage arrangements.

Conclusion

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

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this permission.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans: Location Plan (scale 1:1250); Plots 1,2 (October 2019); Plots 3,4 (October 2019); Landscaping Plan (February 2019); Refuse Details Plan (LSR/R6/JL - RE1).
- 3) Notwithstanding the details submitted with the application, no development shall take place until details of the materials to be used for the external walls and roofs of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details.
- 4) Notwithstanding the details submitted with the application, no development shall take place until a landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in full by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season. The approved hard landscaping scheme shall be implemented in full prior to the first occupation of the development.
- 5) No development shall take place until a scheme of noise mitigation to protect the dwellings from unacceptable levels of noise from the A421 has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved scheme shall be implemented and maintained in full throughout the life of the development.
- 6) No development shall take place until an Ecological Enhancement Plan for the enhancement of boundary features and the creation of new wildlife features such as integrated bird/bat and bee boxes, hedgehog holes in fences and landscaping has been submitted to and approved in writing by the Local Planning Authority. The content of the Plan shall be informed by an up to date Ecological Appraisal of the site and shall include the: a) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, the type and source of materials to be used); b) extent and location of proposed works shown on appropriately scaled maps and plans; c) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; d) persons responsible for implementing the works; e) details of initial after care and long-term maintenance. The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 7) Prior to the construction of the vehicular parking areas that are depicted upon the approved Landscaping Plan (February 2019), a scheme for the charging of electric vehicles shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall be completed in accordance with the approved details. The parking and turning areas hereby approved shall not be used for any purpose other than the parking, turning and charging of vehicles.
- 8) A scheme indicating the positions, design, materials and type of boundary treatment(s) to be erected shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development, boundary treatments shall be erected in full accordance with the approved scheme and shall thereafter be retained at all times.
- 9) The widened junction of the vehicular access with the highway, as depicted upon the approved Landscaping Plan (February 2019), and the refuse bin collection area, as depicted upon the approved Refuse Details Plan (LSR/R6/JL - RE1), shall be implemented in full prior to the first occupation of the development hereby permitted and shall be retained at all times thereafter.
- 10) The maximum gradient of the vehicular access shall be 5% (1 in 20) for the first 6m measured into the site from the highway boundary and thereafter 1 in 10.
- 11) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors', which, amongst other provisions, restricts working hours to 0800-1800 Monday to Friday and to 0800-1300 on Saturdays, with no construction works on Sundays or Bank Holidays.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking further amending or re-enacting that Order, no alteration or roof addition that provides any additional upper-floor window opening to the south-east facing rear elevation or roof slope of either Plot 1 or 2 (as depicted upon approved plans: Landscaping Plan (February 2019) and Plots 1,2 (October 2019)) shall be constructed without prior planning permission first being obtained from the Local Planning Authority.