



Appeal Decision

Site visit made on 20 July 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2020

Appeal Ref: APP/Y0435/W/20/3244577

111 Buckingham Road, Bletchley MK3 5HZ

- 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 Andrew Bennett against the decision of Milton Keynes Council.
 - The application Ref 19/01617/FUL, dated 19 June 2019, was refused by notice dated 16 August 2019.
 - The development proposed is redevelopment of site to provide three dwellings and provision of associated landscaping and parking together with access from Byron Close, including demolition of existing structures, breaking-up and recycling of hardstanding and enabling works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address is given as 111 Buckingham Road although the appeal proposal is for a terrace of 3 dwellings fronting onto and, accessed from Byron Close, on a site formerly occupied as a veterinary surgery.

Main Issues

3. The main issues are the effects of the proposed development in respect of:
 - (i) the living conditions of the occupants of No 113 Buckingham Road by virtue of the siting, scale and design of the proposal and also for future occupants of the appeal scheme in respect of the provision of rear garden space and,
 - (ii) the character and appearance of the area and,
 - (iii) protected species and trees covered by a blanket Tree Preservation Order and,
 - (iv) public highway safety in relation to the provision made for parking of cars and bicycles.

Reasons

Living conditions

4. The appeal site lies directly adjacent to one other dwelling, a dormer bungalow at No 113 Buckingham Road. No 113 lies at a lower ground level compared to the appeal site. It has 3 dormer windows, 2 of which are habitable rooms that face directly onto the appeal site. The appeal proposal does not include windows on the western flank wall thus avoiding direct overlooking into No

113. However, the wall would be constructed very close to the existing boundary wall and neighbouring dwelling (0.7m and 4.1m respectively according to the Council's measurements) and since there is no existing building in such close proximity the effect, when coupled with the differences in levels, would be overbearing leading to a loss of daylight and outlook for the occupants of No 113.
5. The appellant has referred to an existing consented scheme on the appeal site (Ref 18/01423/FUL). The western flank wall of that proposal would be located further from the common boundary with No 113 and feature first floor accommodation within a dormer roof. This compares to the appeal proposal which would be considerably higher since it would be for 2 storey dwellings featuring a hipped roof.
 6. The terrace of 3 dwellings each include an area of north facing private amenity space to the rear which, I understand, would meet the Council's minimum depth requirements as set out in the Design Guide (2012). However, the appeal site is, in effect, located within an area of woodland where each garden would either contain mature trees and/or lie within the overhang of branches. The trees are protected and the shadowing from the trees coupled with the north facing orientation would reduce the attractiveness and usability of the gardens to future occupants.
 7. Accordingly, I find that the appeal proposal, by virtue of the siting, scale and design would adversely affect the living conditions of the occupiers of No 113 and in addition would fail to provide sufficient useable rear garden space for future occupiers. Therefore, the appeal proposal conflicts with Policy D5 of the MK Plan 2016 – 2031 (adopted 2019) (LP) and Policies D1 and D2 of the West Bletchley Neighbourhood Plan (2019) (NP). Policy D5 requires that the living conditions of proposed and surrounding buildings should be to a good standard. Policies D1 and D2 provide additional justification requiring no adverse effects on neighbouring properties and provision of sufficient garden space.

Character and appearance

8. Most of the land between Byron Close and Buckingham Road comprises a grassed area of open space, about 20 m in depth, containing many mature trees. At present, the appeal site appears to merge with the open space since there is a low picket fence (proposed for retention) forming the boundary and the tree cover and grass extend across a significant proportion of the site. The southern side of Byron Close comprises one detached bungalow, a run of detached houses and opposite the appeal site, one pair of semi-detached dwellings. Byron Close turns southwards at the appeal site and the housing beyond this point is characterised by mostly semi-detached dwellings. All of the existing dwellings feature front gardens with sufficient depth for off-road car parking. No 113 is the closest property which is a dormer bungalow constructed at a lower level.
9. The appeal proposal would differ from the existing pattern of buildings because it would comprise a 3 dwelling, 2 storey terrace which would be considerably bulkier than the other buildings on this estate. The siting of the building at the bend of Byron Close means it would occupy a dominant position exacerbated by the proximity of the front corner of the eastern end of the terrace, just a short distance from the footpath. While I understand the siting of the new building would not directly lead to the loss of mature trees, a number would

need lopping to enable the development and it is likely that future residents would wish to cutback or remove trees to create more useable garden spaces. The effect would be to reduce the bulk of the trees on and immediately adjacent to the site.

10. The visual effect of the proposed terrace would appear uncharacteristic of the area. It would also appear as an unsympathetic over-development of the site failing to respond with sufficient sensitivity to the constraints, including its shape, positioning and extensive protected tree cover. As a result, I find that the appeal proposal would have a harmful impact on the character and appearance of the area. In coming to this view, I recognise that the appellant sought pre-application advice from the Council but also note the extensive number of responses made through public consultation on the planning application.
11. Therefore, the appeal proposal conflicts with Policy D1, D2 and D3 of the LP and Policies D1 and D2 of the NP. Collectively the LP policies seek a high quality of development that responds positively to the site and surrounding locally inspired context, leading to enhancement of the character of the area. The NP policies provide additional support to the approach in the LP. The approach in the development plan is consistent with that set out in the Government's National Planning Policy Framework.

Protected species and trees

12. There is no ecological survey report although a requirement for the preparation of such a report was not highlighted at the pre application stage. Given the extent of protected tree cover on the appeal site it is likely that it provides a haven for wildlife, including bats. The appellant has not disputed this and refers to suitable planning conditions on the extant planning permission, suggesting that a similar approach to the appeal proposal would be appropriate.
13. An arboricultural report was prepared by Tom Moya Associates dated October 2019, after the planning application was determined. The proposed development would result in the loss of very few trees. However, each of the three dwellings proposed would affect root protection zones and the proposed patio areas would affect the zones of a number of additional protected trees. The arboricultural report outlines the root protection measures that would be required to enable the development without long term detriment to the health of the trees affected. The arboricultural report also suggests that the lopping of seven protected trees would be required to reduce the crowns and/or lift the canopies of the respective trees. These works would be required to facilitate the development and to reduce shading in the rear garden areas but would not be required purely for the maintenance of the trees affected.
14. Notwithstanding the contents of the arboricultural report, and despite the use of protective ground measures and branch lopping, the footprint and positioning of the proposed development is likely to have a harmful effect on the protected trees on the site, at least in the short-term. In addition, future occupiers, not unreasonably, might seek to either lop branches or seek removal of trees to increase daylighting and usability of the rear garden spaces. Under either scenario, there could be a consequential effect on the capacity of the trees to facilitate wildlife and this position would arise because of the proposed overdevelopment of the site which I have identified above.

15. Therefore, the appeal proposal would conflict with the provisions of Policies NE2 and NE3 of the LP. These policies seek to prevent the loss of habitats and ensure that biodiversity and habitats are protected and enhanced through new development. Additionally, Policy D2 of the NP seeks to ensure there is no significant loss of wildlife.

Public highway safety

16. The proposals would accommodate 6 car parking spaces on-site, 4 on a triangular shaped parcel of land to the front of the terrace and 2 tandem spaces adjacent to the end terrace. The Council's adopted Parking Standards Supplementary Planning Document (2016) (SPD) requires, in addition, a further 0.5 spaces unallocated parking per dwelling. The appellant suggests this could be accommodated on-street, pointing out the level of on-site provision is similar to most existing properties.
17. The configuration of the proposed parking on-site is my main concern rather than the quantum of provision. The shape of the site, and positioning of the proposed terrace, means that the 2 spaces for the middle dwelling would actually be provided, in whole, or in part, to the front of the 2 dwellings at either end of the terrace. There also appears to be limited manoeuvring space. This unconventional positioning of the parking spaces would not be visually pleasing and would be a compromise to accommodate sufficient spaces as a consequence of over-development of the site.
18. In relation to cycle parking the proposals allow for access into the rear garden areas including gateways onto Buckingham Road. Secure parking could be provided in the rear gardens or by other means.
19. I conclude that the proposed arrangements for parking on the site would be harmful because of the poor design of the parking area to the front of the 2 dwellings at the west of the proposed terrace. As such, the proposals conflict with Policies CT2 and CT10 of the LP as they fail to provide well designed parking providing suitable and convenient access. While the quantum of parking proposed complies with the standards in the Council's Parking Standards SPD, it does not follow that guidance in respect of the alignment of spaces on a development plot.

Other Matter

20. With reference to 2 recent appeal decisions issued 26 September 2019 (APP/Y0435/W/18/3214365 and APP/Y0435/W/18/3214564), the appellant has indicated that the Council cannot identify a 5-year supply of housing land (5YHLS) and, as a consequence, paragraph 11d of the Framework would apply.
21. The Council dispute this position, suggesting in their evidence that there is 6.42 years supply. The Council draw my attention to APP/Y0435/W/19/322058 issued on 5 September 2019 which concludes a Framework compliant 5YHLS and was unchallenged in the High Court. However, the most recent appeal decision within Milton Keynes relating to the 5YHLS was issued on 27 April 2020, following a public inquiry (APP/Y0435/W/19/3234204). Having tested evidence relating to the supply of land, the Inspector concluded that a 5YHLS with a reasonable prospect of delivery could be identified.
22. The appellant has not supplied any further substantive evidence that would lead me to a different view. Therefore, I conclude that the Council can identify

a 5YHLS which means that the tilted balance is not engaged and I have determined the appeal on its merits against the policies set out in the development plan.

Conclusion

23. For the reasons given above, I conclude the appeal should be dismissed.

David Carter

INSPECTOR