
Appeal Decision

Site visit made on 7 August 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 15th September 2020

Appeal Ref: APP/Y0435/W/20/3249676

Land to the rear Farthing Grove, Netherfield, Milton Keynes MK6 4JH

- 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 Wildview Ltd against the decision of Milton Keynes Council.
 - The application Ref 19/02413/FUL, dated 20 September 2019, was refused by notice dated 15 November 2019.
 - The development proposed is demolition of existing accommodation, erection of two-storey residential building comprising 8 flatted dwellings, and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted amended plans as part of the appeal. These indicate that the four ground floor dwellings would have one bedroom rather than two bedrooms as shown on the original drawings. As such, since the overall form and siting of the building and number of dwellings remain the same, the description of development would not be altered by the proposal. Other changes include two ground floor windows being altered to half-height high level windows, two upper floor windows on the side elevations being larger than that shown on the original drawings, and the introduction of high-level windows at ground floor on the side elevations. Therefore having had regard to the Wheatcroft Principles¹, while the amended plans would materially alter the proposal, they would not be changed to a degree to amount to substantial changes that would deprive those who should have been consulted on the changed development of the opportunity of such consultation. I have therefore also had regard to the amended plans.

Main Issues

3. The main issues are:
 - whether the proposal would provide a suitable living environment for future occupiers with particular regard to light, privacy and outlook;
 - the effect of the proposed development on the character and appearance of the area including perception of crime;
 - the effect of the proposal on biodiversity; and

¹ (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]):

- whether the proposed development would provide adequate outdoor amenity space.

Reasons

Light, privacy and outlook

4. The separation distance between the proposed building and The Netherfield Centre, a terrace of retail units (Local Centre) would be around 5.5m. Therefore, with regard to daylight, given the two-storey height of both the proposed building and the Local Centre, and their close proximity, the daylight reaching the bedroom windows of the two central dwellings at ground floor of the original proposal would be limited.
5. Similarly, under the amended scheme, there would-be high-level half height windows facing the Local Centre. Given the two-storey height of both the proposed building and Local Centre, and the close proximity of the two buildings, the daylight reaching the small high-level windows of the two central dwellings at ground floor would be limited. While the kitchen and living areas would be dual aspect with windows on the opposite wall, given the length of the internal space and the modest height of the rear window, there would be unlikely to be significant amounts of daylight reaching the dining and kitchen area. Therefore, the amended scheme would result in a bleak living environment for future occupiers.
6. With respect to privacy, the original scheme had ground floor bedroom windows looking out to the rear of the Local Centre. Even with obscured glazing, since other occupiers of the building would be passing the windows at close proximity, the privacy of future occupiers would have been unduly breached under that arrangement.
7. Having regard to the amended scheme, while there would not be low-level windows on the front elevation adjacent to the access area, the proposed shared amenity space would still be located directly adjacent to two ground floor flats. This would result in users of the shared outdoor area being able to look directly into the windows of two bedrooms and one living space at ground floor. In addition, the other rear windows at ground floor would look out onto the open grassed area which could be accessed by the public. Since users of the shared amenity space could look into these windows at close proximity and the public could look into the remaining ground floor windows, the privacy of future occupiers would be unduly affected as a result.
8. While the appellant has suggested measures including obscure glazing, non-openable windows and defensible planting, these would be likely to restrict the outlook from the affected windows and light reaching the internal windows to a degree that would adversely affect the living environment of future occupiers. Therefore, a condition requiring such details to be implemented would not be effective.
9. Turning my attention to outlook, since the bedroom windows of the two central ground floor units under the original scheme would look out to the rear of the Local Centre at close proximity, the outlook from these windows would be oppressive.
10. Under the amended scheme these windows would be half height, at high level and would serve a kitchen area. Given the height of the front windows, and

that they look out onto the rear of the Local Centre, the outlook from these windows would be restricted. However, since the kitchen and living area would be dual-aspect, with a window on the opposite wall, the outlook of future occupiers would not be unduly restricted under the amended scheme.

11. Consequently, the proposed development would harm the living environment of future occupiers with regard to daylight and privacy. Therefore, it would conflict with Policy D5 of Plan:MK 2016 - 2031 Adopted March 2019 (PMK) which among other things requires the levels of sunlight and daylight within buildings to be satisfactory and seeks a reasonable degree of privacy to new private living space.

Character and appearance

12. The site is located in close proximity to the rear of the Local Centre. There is a public footpath nearby, and a row of residential dwellings at The Hide opposite, from which the proposal will be visible. However, given the close proximity to the Local Centre and service yard, the site has a closer relationship to these retail units than to the residential area. The space between the rear of the Local Centre and the residential development at The Hide is largely occupied by the service yard of the Local Centre and undeveloped grassed land. As such, the area has an open utilitarian feel.
13. While I acknowledge the proximity to the public footpath, the communal access area to the flats would be bound on two sides by the two-storey proposed building and the two storey Local Centre which are in close proximity to each other. Moreover, the entrance doors to the building would be recessed and only accessible via a single gated entrance. As such, the entrance to the proposed building would feel oppressive and unsafe, particularly when the retail units are closed. While I note the evidence relating to closing times of local shops and takeaways, it is nevertheless likely that pedestrian traffic would be significantly reduced during evenings and early mornings such that the entrance route to the building would feel unsafe. Consequently, the proposal would significantly diminish the open character and appearance of the area.
14. I note that the residences at The Hide, Buckland Drive and Farthing Grove would provide some natural surveillance to the proposed building. However, this would not extend to the communal access area sufficiently to mitigate the oppressive character of the entrance. In addition, while future occupiers may provide some additional passive surveillance, this would not mitigate the unsafe character of the entrance route to the building.
15. I also acknowledge that closed circuit television cameras could be required by a suitably worded condition. While this would provide a degree of surveillance, it would not substantially alter the oppressive character and appearance of the communal access area that would result from its siting between the rear of the Local Centre and the proposed building.
16. The proposed materials and elevational treatment would result in a somewhat repetitive and functional design. However, given the utilitarian character and appearance of the Local Centre and dwellings at The Hide, the proposal would not appear out of character in this particular regard. The lack of harm in this respect, however, would not override my findings above.

17. Consequently, the proposed development would harm the character and appearance of the area including perception of crime. Therefore, the proposal would conflict with PMK Policies D1 and EH7 which seeks among other things continuity of street frontage and locating fronts of buildings to face the street or public space and safe residential environments addressing the fear and perception of crime. It would also conflict with the National Planning Policy Framework (2019) in this respect.

Biodiversity

18. PMK Policy NE3 requires that development proposals of 5 or more dwellings or non-residential floorspace in excess of 1,000 sq. m will be required to use the Defra metric or locally approved Biodiversity Impact Assessment Metric (BIAM) to demonstrate any loss or gain of biodiversity. Since a BIAM was not submitted as part of the application or appeal, the proposal would conflict with this Policy.
19. While I note that the site is likely to have limited biodiversity impact, and is not subject to any relevant designations, since there is no substantial evidence which sets out a relevant assessment of the site, or any mitigation measures for any identified impacts, there is no certainty that a condition will be effective.
20. Consequently, there has not been a demonstration that the proposed development will not harm biodiversity. Therefore, the proposed development would conflict with PMK Policy NE3.

Amenity space

21. While I note the size of the shared amenity space as stated by the Council, from the evidence before me, the space appears to be of sufficient dimensions to accommodate the needs of future occupiers. The proposal would not provide any private external amenity space. Since PMK Policy D5 does not specifically require private external amenity space for every flat, the proposal would not conflict with this Policy in this particular respect. Moreover, the New Residential Development Design Guide Supplementary Planning Document Adopted April 2012 (SPD) allows for private open space to be provided in the form of private shared gardens.
22. Consequently, the proposed development would provide adequate outdoor amenity space. Therefore, it would not conflict with PMK Policy D5 in this particular regard which requires, among other things, that external private or shared communal garden space, in its extent and design, meets the reasonable needs of its users.

Other Matters

23. I note concerns regarding the service provided by the Council. However, this has not altered my overall decision which has been made based on the planning merits of the scheme.
24. I acknowledge the history of the site and that the dwellings would be low-cost entry level housing. I also note Policy WN16 of the Woughton Community Neighbourhood Plan: Submission Version (January 2017) which supports proposals to expand the Local Centre to provide new commercial, office, workspace or live/work units. In addition, I acknowledge that the site

comprises previously developed land and the proximity of services and facilities. I also note the Unilateral Undertaking which secures nearby parking spaces. The Council has not objected to this and from the evidence before me, I see no reason to disagree. However, given the harm identified above, these matters have not altered my overall decision.

Conclusion

25. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR