



Appeal Decision

Site visit made on 12 January 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th February 2021

Appeal Ref: APP/P0240/W/20/3258102

3A Church Road, Harlington LU5 6LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by J Carrington and P Wright against Central Bedfordshire Council.
 - The application Ref CB/20/01686/FULL, is dated 26 May 2020.
 - The development proposed is demolition of existing and construction of new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing and construction of new dwelling at 3A Church Road, Harlington LU5 6LE in accordance with the terms of the application, Ref CB/20/01686/FULL, dated 26 May 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Although expressed differently within the Council's evidence, neither of the main parties has provided written confirmation that a revised description of development from that entered on the original application form was agreed. I have therefore used this description in the banner heading and my formal decision above.
3. The Council produced a decision notice dated 2 September 2020. As this post-dates the lodging of the appeal, it does not constitute a formal refusal of the application. I have therefore determined the appeal on the basis of the Council's failure to give notice within the prescribed period of a decision on an application for planning permission. However, I have had regard to the decision notice and the accompanying officer report insofar as they provide clarity on the reasons why the Council would have refused planning permission had it been able to do so.
4. The Council's initial evidence and putative reasons for refusal include references to Policy BE8 of the South Bedfordshire Local Plan Review 2004. However, both main parties confirm that this is an error, and in its place, I have been directed to Policy DM3 of the Core Strategy and Development Management Policies 2009 (CSDMP) which seeks similar outcomes. The main parties were given the opportunity to comment on any implications of this update, and I am satisfied that no prejudice would be caused by my determination of the appeal with regard to the policies of the CSDMP as the correct adopted development plan relevant to the appeal proposal.
5. I have additionally been referred to policies within the emerging Central Bedfordshire Local Plan 2015-2035 which was submitted to the Secretary of

State in 2018. The emerging plan is yet to be adopted and is therefore subject to change, and I have not been provided with details of unresolved objections. The weight that the emerging plan carries in my decision is therefore limited

Main Issues

6. The main issues are:

- i) the effect of the proposal on the character and appearance of the Harlington Conservation Area;
- ii) whether or not living conditions for future occupiers of the proposed dwelling would be acceptable with particular regard to the provision of outdoor space; and
- iii) the effect of the proposal on the living conditions of the occupiers of 5 Church Road with particular regard to privacy.

Reasons

Character and Appearance

7. The appeal site is within the Harlington Conservation Area (CA). I have therefore paid special attention to the desirability of preserving or enhancing the character or appearance of the CA in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. Buildings near to the site are predominantly fairly large detached properties of traditional styles. However, there is little consistency in their form, design or materials, and there are also much more modest properties present, as well as some attached buildings, which gives the area a varied appearance. Plots to buildings are of typically generous total size, and with the churchyard around St Mary's Church and adjacent open space, provide for a spaciousness to this part of the CA overall, although spacing to the sides of buildings does vary and is in some cases relatively slight. In my view, this spacious but mixed pattern together with the varied appearances of the buildings which include a number of nearby listed and locally listed buildings results in an attractive diversity which adds to the character and appearance, and thus significance of the CA.
9. The appeal site includes a single-storey building of fairly modern appearance, with a predominantly glazed front and limited detailing. Notwithstanding a garage outbuilding to the side of the neighbouring dwelling at 3 Church Road, the scale and appearance of the appeal building as an independent structure is somewhat at odds with its surroundings, and I am satisfied that its removal would not harm the character or appearance of the CA.
10. The proposed replacement dwelling would be smaller than the immediate neighbours, but its scale would not be incongruous or inappropriate given the overall variety in the size of buildings that I observed nearby. It would fill the majority of the width of its plot with only a fairly narrow gap to the boundary with 5 Church Street. However, I have not been directed to any policy requirement specifying the proximity of new dwellings to their boundaries. While large dwellings on generous plots may be the predominant form of nearby development, this is by no means uniform. I saw examples of buildings set close to one or both side boundaries, including 5 Church Road which extends up to the appeal site boundary, as well as buildings attached to one another such as those opposite the church. As a consequence, the degree of

spacing around buildings that is apparent from the streetscene varies significantly, adding visual interest and diversity to the overall character.

11. In this context and with regard to the variation in spacing that I observed, I do not find that the relationship of the building with the boundaries to its sides would be out of keeping or uncharacteristically cramped. I acknowledge that space to the rear of the dwelling would also be limited and the proposal would not conform with guideline garden sizes within the Central Bedfordshire Design Guide 2014 (CBDG). Nevertheless, it seems to me that these are concerned with providing access for residents to outdoor space rather than the character or appearance of an area. In this case, the extent of the space behind the building would not be readily apparent from the street scene, and the adjacent garden beyond would provide for an open setting to its rear. The relationship with its boundaries would not therefore be jarring. Nor, given the modest scale of the building, do I find that it would be deprived of a suitable setting.
12. The height of the building below Nos 3 and 5 and its set back in comparison to No 5 would further help to limit the visual impact of the development on the area. The position of the entrance to the side of the building would be unusual. However, with regard to the mixed appearance of other buildings in the vicinity and the existing appeal building, I do not find that this would be striking, and taken as a whole I find that the traditional materials and appearance of the dwelling would be a sympathetic response to the surrounding area.
13. For all of these reasons, I consider that the development would be compatible with the existing diversity of this part of the CA. It would assimilate well with the surrounding area, and I am satisfied with regard to the specific circumstances of the appeal site that the character and the appearance of the CA would be preserved. Accordingly, I find no conflict with Policy DM3 of the CSDMP which seeks, amongst other things, development that is sympathetic to its setting and local distinctiveness and which respects and complements the context and setting of historically sensitive sites. I am also satisfied that the significance of the CA would be preserved in accordance with the requirements of the National Planning Policy Framework (the Framework).

Living Conditions – Future Occupiers

14. The appellant has not disputed the Council's assertion that outdoor space to the rear of the dwelling would be around 16sqm in area and around 4.5m deep at the maximum. On this basis, there would be a shortfall against suggested standards within the CBDG which require private gardens with a minimum area of 50sqm and a minimum depth of 10sqm to serve a 2-bedroom house. In addition, the dwelling and adjacent two-storey buildings would enclose much of the space, with levels of light also likely to be limited by its position broadly to the north of the dwelling. In combination with its size, I find that these factors would limit the attractiveness of the space to future occupiers and its use.
15. Be that as it may, the CBDG is guidance rather than an absolute policy requirement. The appeal site is very close to nearby public open space to the opposite side of Church Road. Although this would not provide a direct substitute for private amenity space for the exclusive enjoyment of occupiers of the dwelling as sought by the CBDG, it would enable convenient access to alternative outdoor space in addition to the courtyard within the site.

16. As a result, I find that harm to the living conditions of future occupiers through the failure to provide private outdoor space as sought by the CBDG would be fairly limited. Nevertheless, this would result in some conflict with Policy DM3 of the CSDMP which seeks high quality development, as well as with the Framework which seeks a high standard of amenity for future users.

Living Conditions – Neighbouring Occupiers

17. Although set back from the deepest part of the development, separation between a first-floor window proposed to a bedroom at the rear of the dwelling and the boundary at the rear of the site would be limited. The window would therefore afford high-level views at close range towards the conservatory and closest parts of the garden of No 5 which wraps around to the rear of the site.
18. However, the window is of limited size, and its position means that any views from it would be available from only a very small area of the bedroom to the side of the door rather than the main part of the room. Moreover, the appellant advises that the window is intended as a means of escape, and therefore could be fitted with obscure glazing, and I note that rooflights would provide an alternative light source for the bedroom. Given these factors, I am satisfied that a condition to require the use of obscure glazing to this window could be attached were the appeal to succeed, and would avoid a harmful loss of privacy for the occupiers of No 5.
19. Subject to this condition, I conclude on this main issue that the proposal would not result in unacceptable harm to the living conditions of the occupiers of 5 Church Road, and in this regard, it would accord with Policy DM3 of the CSDMP.

Other Matters

20. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a requirement to have special regard to preserving the special interest and setting of listed buildings. However, in view of the scale of the proposed development, and the separation and intervening buildings, I agree with the Council that the proposal would not harm the setting or significance of listed buildings in the vicinity of the appeal site including the Church of St Mary the Virgin and Strawplaiters.
21. Given the relationship of the building with windows to the side of No 3 which the Council indicate serve a bathroom or provide a secondary window, I do not consider that the development would adversely affect living conditions for these occupiers. The high-level nature of the ground floor windows to the side of No 5 and that these are secondary windows also means that I find there would not be opportunities for harmful mutual overlooking with the appeal site and the development would not cause an unacceptable loss of light. No 5 also has a first floor window to the side which I am advised serves an office. The proposal would bring built form closer to this window, but the window would extend above the height of the eaves of the building and the roof above would also angle away from the boundary and from the front of the building so that I do not consider there would be an unacceptable loss of light or outlook in comparison to the existing situation. I am also satisfied given the scale and relationship of the development with the space to the rear of No 5 that it would not result in a significant loss of light or overbearing impact to the detriment of the living conditions of occupiers of this dwelling.

22. The boundary of neighbouring properties, access for construction and future maintenance and allowances for footings are legal matters separate from the planning process, and any effects during the construction period would be short-term, and could be mitigated by careful construction management.
23. Parking on the site would meet required standards and there is no firm evidence that vehicle movements associated with the development would harm highway safety. In this regard, I note that the Highway Authority has not objected, and from the evidence before me, I see no reason to disagree. Given also the number of spaces and that they would serve only the appeal dwelling, I do not consider there would be noise or air quality impacts to the detriment of future occupiers. Internally, the dwelling includes some provision for built-in storage, and with regard to the size and layout of rooms, I am satisfied that the space provided would be adequate to meet the needs of occupiers.
24. I have not been directed to a policy requirement to retain the existing commercial use, nor substantive evidence of an unmet need which would be exacerbated by its loss, and while existing occupiers may support additional community activities, there is nothing to demonstrate that this would always be the case.
25. While I have taken into account comments made by interested parties, I am satisfied that none of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal, and the representations do not alter my findings on the main issues.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.
27. The provision of private outdoor space for occupiers of the dwelling would be contrary to guidance within the CBDG, and would result in some conflict with Policy DM3 of the CSDMP. However, I have found that harm to the living conditions of future occupiers would be fairly limited as a result of convenient access to public open space nearby. Subject to appropriately worded planning conditions, there would also be no harm to the character or appearance of the CA or the living conditions of neighbouring occupiers.
28. The Frameworks seeks to significantly boost the supply of housing to meet needs, and advises that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. The proposal would provide an additional dwelling, and would make effective use of the previously developed site which is within an existing settlement with access to some local services as well as public transport links nearby. The scale of the development means that the contribution towards the supply of housing would be small, and I note that the Parish Council has referred to flats under construction close to Harlington Station as providing additional smaller dwellings within the village. Nevertheless, in the context of the advice within the Framework I give these matters significant weight which I find would outweigh the conflict with Policy DM3 of the CSDMP and the modest harm to the living conditions of occupiers of the dwelling in this instance.
29. Accordingly, there are material considerations which indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

Conditions and Conclusion

30. I have considered suggested conditions having regard to the tests set out at paragraph 55 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency, brevity or clarity. I have also avoided the use of pre-commencement conditions where this is not necessary for a condition to achieve its purpose.
31. In addition to the standard time limit, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. Conditions to require details of external materials and provision for landscaping are required to ensure a satisfactory appearance. However, from the information before me I see no reason it would be necessary to require details prior to any works taking place, and I have amended the suggested conditions accordingly. To avoid duplication, I have also combined a number of suggested conditions relating to materials. One of these suggested conditions refers to the use of single-glazing to windows, but I am not persuaded that it is necessary to stipulate this as a requirement within the condition as the submission of details will allow the effect of any proposed glazing on the character of the CA to be assessed. However, given my findings on the main issues above and after inviting comments from the main parties on the wording of the condition, I have specified that the first-floor rear bedroom window should be obscure glazed and non-opening save for in an emergency.
32. A further condition concerning details of boundary treatments is necessary to ensure a satisfactory appearance, and I have imposed a condition for development to follow the Council's Construction Code of Practice for Developers and Contractors to minimise impacts on neighbouring occupiers. I am mindful that paragraph 53 of the Framework states planning conditions should only restrict national permitted development rights where there is clear justification to do so. However, in this case, given the relationship of the dwelling with its plot, a condition to prevent the enlargement or other alterations to the dwelling is necessary in the interests of the character and appearance of the area and to ensure amenity space is maintained for future occupiers.
33. Subject to these conditions, and for the reasons given above, I conclude that the appeal should be allowed.

J Bowyer
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, W401, W402, W403, W404, W405 and W406.
- 3) Notwithstanding the details submitted with the application, no development above proposed ground level shall take place until a schedule of all external materials and finishes, including colours expressed as RAL Nos or demonstrated by colour swatches, has been submitted to and approved in writing by the Local Planning Authority. The

- development shall thereafter be carried out in accordance with the approved details.
- 4) Samples of external materials, including plinth brick, garden wall brick, rainwater goods, roof tiles and ridges shall be made available on site for inspection and shall be approved in writing by the Local Planning Authority before the relevant material is installed as part of the development. The development shall thereafter be carried out in accordance with the approved details.
 - 5) Notwithstanding the details submitted with the application, all windows, external doors and rooflights shall be installed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. These shall include full details of the construction of the windows, glazing and opening arrangements; and shall demonstrate that the first floor window to the rear of the dwelling serving bedroom 2 will be fitted with obscured glazing to substantially restrict vision through it at all times and will be non-opening other than to provide a means of escape in an emergency. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
 - 6) No development above proposed ground level shall take place until a landscaping scheme to include details of all hard and soft landscaping works and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any 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 within five years following the implementation of the landscaping scheme shall be replaced during the next planting season.
 - 7) Before the development is first occupied, a scheme indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved scheme before the development is first occupied, and shall be retained as such thereafter.
 - 8) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors'.
 - 9) Notwithstanding the provisions of Part 1, Class A, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the building hereby permitted shall be carried out without the grant of further specific planning permission.

End of Schedule