



Appeal Decision

Site Visit made on 13 January 2021 by Gareth Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2021

Appeal Ref: APP/Y0435/W/20/3260559

96 Perran Avenue, Fishermead, Milton Keynes MK6 2JP

- 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 Gary Viner against the decision of Milton Keynes Council.
 - The application Ref: 20/01472/FUL, dated 20 June 2020, was refused by notice dated 25 August 2020.
 - The development proposed is a proposed 2 bedroom end of terrace dwelling, parking and landscaping. Resubmission of refused application 20/00275/FUL.
-

Decision

1. The appeal is allowed and planning permission is granted for a proposed 2 bedroom end of terrace dwelling, parking and landscaping at 96 Perran Avenue, Fishermead, Milton Keynes MK6 2JP in accordance with the terms of the application, Ref: 20/01472/FUL, dated 20 June 2020, subject to the conditions contained in Schedule 1 of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. I have removed 'resubmission of refused application 20/00275/FUL' in the formal decision because that part of the description is not an act of development.

Main Issue

4. The main issues are:
 - i. The effect of the proposed development upon the character and appearance of the street scene;
 - ii. The impact of the proposed development upon the living conditions of the occupiers of No.96 Perran Avenue; and
 - iii. The impact of the proposed development upon highway safety.

Reasons for the Recommendation

Character and appearance

5. No.92, No.94 and No.96 are two storey dwellings that are part of a small run of terrace properties. No.92 and No.94 are similarly designed side gabled buildings whilst No.96 is a gable fronted dwelling with a pitched roof and there are similarly designed runs of terrace dwellings within the wider residential area. Although the exact scale and appearance of these runs of terrace development does vary across the wider area. Buff coloured brickwork with dark concrete roof tiles are the commonly used materials which brings a degree of consistency in the street scene.
6. The garden for No.96 wraps around the building and is larger than many of the gardens within the street. The entrance to the dwelling is on the flank wall of the building. To the side of the dwelling is a single storey garage and outbuilding which would be demolished to make way for the proposed dwelling.
7. The dwelling would be constructed from similar materials to the other dwellings within the run of terrace dwellings and would be around the same width and height as the two terrace properties on the other side of the gable fronted dwelling. The front elevation of the dwelling would be very similar in appearance of No.92 and No.94, notwithstanding the presence of the car port on the ground floor and some minor differences in terms of the exact location and number of windows.
8. When read alongside No.92 and No.94 the development would create a symmetrical appearance either side of No.96 and there are other examples within the immediate area, where similar development has built either side of a gable fronted dwelling. Furthermore, car ports are not uncommon in the area so a car port would not appear out of character. In addition, the materials used would be similar to many of the dwellings locally and as a result the dwelling would appear as a sympathetic addition to the street scene.
9. The appearance of No.96 would be altered as a result of the side door being moved to the front, along with associated changes to the fenestration. However, there are examples of other similar properties within the wider area where the door has been located to the front and this minor change would not look out of character as a result.
10. Therefore, the proposal would be in accordance with Design Policy 1 of the Campbell Park Neighbourhood Plan (Made 2018) as well as Policies D1, D2 and D3 of Plan:KM 2016-2031 (adopted 2019) which overall looks to ensure the development integrates into the surrounding area by adopting the positive characteristics of the area. The proposal would also accord with the National Planning Policy Framework (The Framework) which notes that developments should be sympathetic to local character and history.

Living conditions

11. Around half of the garden for No.96 would be located behind the rear elevation of the proposed dwelling and the garden would be around twice the width of No.96. The two-storey element of the building would be built in line with the rear of No.96 and there would be a single storey extension that would extend into No.96's garden. There are no windows proposed on the ground floor and

the window on the first floor would be obscure glazed. As such, there would be no issues in terms of the future occupiers overlooking No.96's garden.

12. The gardens for this run of dwellings are north facing and because of this the gardens are partly overshadowed by the dwellings. The proposed gardens would be no different to the established pattern in that respect. The proposed dwelling would be two storeys tall and combined with the proposed single storey rear extension, some of No.96's garden would be overshadowed by the proposal. Nevertheless, given the size of the garden, which would be notably larger than the gardens of Nos.92 and 94, and the height of the proposed dwelling a decent proportion of the garden would not be overshadowed by the development and I am satisfied that enough of the garden would retain adequate levels of daylight and sunshine to render it a usable and functional space.
13. Therefore, the proposal would not cause harm to the living conditions of the occupiers of No.96. As a result, the development would be in accordance with Policy HN4 of Plan:MK which requires residential development to demonstrate good internal and external design that can accommodate different lifestyles and needs. The proposal would also accord with Policy D5 of Plan:MK which notes that development should ensure the levels of sunlight and daylight within buildings and open spaces, and garden areas in particular, are satisfactory.

Highway safety

14. Perran Avenue is a cul-de-sac and there were no parking restrictions near to the site and at the end of the cul-de-sac near to the site are two public parking bays that can accommodate up to four parked cars. The Parking Standards Supplementary Planning Document (adopted 2016) (SPD) requires a two-bedroom property to have two off street parking spaces. The proposed dwelling would have three off-street parking spaces although one of these is located in the car port. The Council note that the car port is essentially a garage and parking spaces in garages are not considered to be formal parking spaces. Nevertheless, the proposed dwelling would still provide two off street parking spaces in front of the car port and as a result the proposal would provide parking for that dwelling in accordance with the SPD.
15. If the development were to go ahead, No.96 would have no off-street parking spaces. The SPD advises that reliance on kerbside parking within residential streets will not normally be acceptable, although it does note that the acceptability of such parking will depend on the circumstances of the individual case. As noted, there are no parking restrictions near to the site and at the time of the site visit three of the four spaces in the parking bays were available as well as ample on street parking spaces on Perran Avenue and the neighbouring roads. I recognise that this was only a snapshot in time, but no evidence has been provided to demonstrate that there is acute pressure on parking in the area at other times to an extent that causes harm to highway safety.
16. Whilst the occupiers of No.96 cannot rely upon those public parking bays being available, there are sufficient on-street parking spaces available to accommodate the shortfall from this single dwelling. Furthermore, given the width of the road and the very limited number of vehicles that would drive down the cul-de-sac, I am satisfied that the additional cars parked on the road would

not have an unacceptable impact on highway safety nor would the residual cumulative impacts on the road network be severe.

17. Therefore, the proposal would broadly be in accordance with Policy CT10 of Plan:MK which requires development to provide parking in accordance with the SPD, unless mitigating circumstances dictate otherwise. Furthermore, the proposed development would not cause harm to highway safety and consequently would be in accordance with paragraph 109 of the Framework.

Other Matters

18. If the parking space inside of the car port was used, it would be simple enough for the occupiers of a single dwelling to organise the parking between themselves to ensure cars are not blocked in. As such, the tandem parking would be acceptable in this instance. The parking spaces are large enough to allow pedestrians to walk between the parked cars and as a result would not block the pedestrian access around the property. Ergo, the proposal would not reduce accessibility to the proposed dwelling.

Conditions

19. Further to the statutory commencement condition, in the interest of the character and appearance of the area it is also necessary to ensure that the development is completed in accordance with the approved plans and to provide details and/or samples of the materials to be used.
20. A condition that would remove all of the permitted development (PD) rights for the proposed dwelling under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) would not be reasonable or necessary in the interests of protecting neighbouring occupiers living conditions because the site is not so constrained to warrant the blanket removal of the dwellings PD rights. The Planning Practice Guidance (PPG)¹ also notes that the conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity and the scope of such conditions need to be precisely defined.
21. A condition removing permitted development rights to add openings on the ground floor of the rear wall and eastern flank wall of the proposed dwelling as covered by Schedule 2, Part 1, Class A of the GPDO is necessary in the interest of protecting the privacy of the neighbouring occupiers.
22. The PPG² states that Local Planning Authorities should not set energy performance standards that are higher than the equivalent of Level 4 of the Code for Sustainable Homes. As a result, it would be unreasonable to expect the development to achieve zero carbon as advised in the Supplementary Planning Document Sustainable Construction Guide (Adopted 2007) that was adopted prior to the publication of the Framework and the PPG. Whilst Policy SC1 of Plan:MK does refer to matters of sustainable construction it does not explicitly require new dwellings to be zero carbon and, on the information provided, to impose such a condition would go beyond the scope of the development plan and national planning guidance. Accordingly, I recommend

¹ Paragraph:017 Reference ID: 21a-017-20190723

² Paragraph:012 Reference ID: 6-012-20190315

that the 'zero carbon' condition suggested by the Council should not be imposed.

23.A condition requiring the car parking spaces are laid out within the site prior to occupation and retain thereafter is necessary in the interests of highways safety.

24.A condition requiring an electric vehicle charging point and to provide digital communications is reasonable having regard to the aims of Policy CT6 and CT9 of Plan:MK.

Conclusion and Recommendation

25.The proposed development would be appropriately designed and would not cause harm to the character and appearance of the street scene. Additionally, the proposal would not significantly overshadow the garden for No.96 and as a consequence would not cause harm to the living conditions of the occupiers. Whilst the proposal would not provide car parking in accordance with the SPD, the proposal would not cause harm to highway safety. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

26.I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed subject to the conditions set out in Schedule 1.

Chris Preston

INSPECTOR

SCHEDULE 1

- 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: Existing Location Plan DWG No. 0156.0S; Proposed Block Plan DWG No. 1056/500/Block B; Proposed Ground Floor Plan DWG No. 0156/P/100B; Proposed First Floor Plan DWG No. 0156/P/101B; Proposed Dwelling Plans DWG No. 0156/P/102B; Proposed Front (South) Elevation DWG No. 0156/P/200B; Proposed Rear (North) Elevation DWG No. 0156/P/201B and Proposed Side Elevations DWG No. 0156/P/202B.
- 3) No development shall commence above slab level until details and/or samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and/or samples.
- 4) Notwithstanding the provisions 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 windows other than those expressly authorised by this permission shall be inserted on the rear ground floor wall or the eastern flank ground floor wall.
- 5) The dwelling shall not be occupied until space has been laid out within the site, in accordance with DWG No. 0156/P/100B, for three cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 6) Prior to occupation of the dwelling an Electric Vehicle Charging Point shall be provided within the site as shown on DWG No. 0156/P/102B and shall thereafter be retained as such.
- 7) Prior to occupation of the dwelling digital communication services shall be provided for the dwelling and shall thereafter be retained as such.