



Appeal Decision

Site visit made on 8 June 2021 by Thomas Courtney BA(Hons) MA

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal Ref: APP/P0240/W/20/3266116

135 High Street South, Dunstable, LU6 3SQ

- 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 Hussain against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/02764/FULL, dated 4 August 2020, was refused by notice dated 23 October 2020.
 - The development proposed is the demolition of existing and redevelopment as four self-contained residential one bed units.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 20 September 2021.

Decision

1. The appeal is dismissed.

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 Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (NPPF). Accordingly, and in light of the reference made to the previous iteration of the NPPF within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been addressed within the appeal decision.
4. The new Central Bedfordshire Local Plan 2015-2035 (the 'Local Plan') was formally adopted on the 22 July 2021 after the submission of this appeal. It replaces the South Bedfordshire Local Plan Review. The Council have provided copies of the newly adopted Local Plan policies relevant to the proposal and the appellant was given the opportunity to comment.

Main Issues

5. The main issues are:
 - the effect of the development on the character and appearance of the Dunstable Conservation Area; and
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- the effect of the development on the living conditions of the neighbouring occupiers, with particular regard to a loss of light, outlook and privacy; and
- whether the development would provide satisfactory living conditions for the future occupants with particular regard to internal space, access to light, privacy and outlook.

Reasons for the Recommendation

Conservation Area

6. The appeal site accommodates a vacant two-storey mid-terrace dwelling that was previously used as a hot-food takeaway with residential premises above. The property has a small two-storey rear outrigger and a narrow rear garden which can be accessed via an alleyway off Lovers' Walk. It is located in a dense area with a mix of residential and retail uses, within the Dunstable Conservation Area.
7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets, which includes conservation areas, is set out in the NPPF. At paragraph 197, it sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
8. High Street South is a tree-lined avenue and one of the main historical thoroughfares in Dunstable. It is typified by verge side trees and by buildings set-back from the highway. The appeal property and surrounding built form appears to date from the Victorian era, although on my site visit I observed a number of modern rear additions and extensions.
9. Whilst I acknowledge that the appeal property is in a current state of disrepair and that renovation works would be desirable, the proposed alterations to the rear aspect of the roof would appear obtrusive and incongruous in light of the extensive area of flat roof. This would significantly alter the roof structure of the appeal property which is currently of a traditional pitched design and would therefore jar with the surrounding properties which have all maintained pitched roofs.
10. Furthermore, the proposed two-storey extension would appear bulky due to its excessive depth and width. It would be a dominant feature on the rear of the building and would dominate the neighbouring low-lying buildings. The appellant contends that the proposed depth would not be significantly longer than the scheme approved in 2017 however an increase of 2 metres in this location would be considerable. The extension would also be noticeably wider than what was previously approved, being practically the same width as the main building. The granting of planning permission for the 2017 scheme¹, does not provide justification for the proposal.
11. Due to the inappropriate design of the roof structure and excessive bulk of the extension, the proposal would negatively impact the host dwelling and

¹ Ref. CB/17/02309/FULL

unacceptably detract from the character and appearance of the Dunstable Conservation Area. I therefore consider that the proposed development would conflict with Policies HQ1 and HE3 of the Local Plan which together seek to ensure proposals are well designed, respect local context, and protect heritage assets. The proposal would also not accord with the statutory test because it would neither preserve nor enhance the character or appearance of the conservation area.

12. In terms of the harm that would be caused to the significance of the conservation area as a designated heritage asset this would be less than substantial, and in accordance with paragraph 202 of the NPPF needs to be weighed against the public benefits of the proposal.
13. The provision of small residential units in a sustainable location would be a public benefit of the proposal to which I attach moderate weight. The improvements to the front elevation of the property carry weight in the proposal's favour, but as I need to assess the proposal as a whole such weight is limited.
14. Against the moderate weight given to these public benefits is the great weight that I am required to give to the heritage asset's conservation. Accordingly, the public benefits of the proposal do not outweigh the less than substantial harm that would be caused to the significance of the conservation area as a designated heritage asset. The proposal therefore also conflicts with the NPPF's aims of conserving and enhancing the historic environment.

Living conditions of neighbouring occupiers

15. The proposed double-storey rear extension would have a considerable height and depth and would sit close to the common boundary with the neighbouring properties at Nos. 129-133 appearing particularly obtrusive and overly dominant from the neighbouring occupants' bedroom windows within the single-storey rear extension.
16. The development would thus significantly and unreasonably alter the neighbouring occupiers' outlook and, due to the orientation of the buildings, it would reduce the amount of light received by the occupants within the rooms on the southern flank elevation of the single-storey rear extension of Nos. 129-133. Indeed, due to the positioning of the double-storey extension to the south east of Nos. 129-133, the amount of light received within the neighbouring occupants' bedrooms would be severely impacted. This would make the rooms gloomy and less pleasant to use as a result.
17. The appellant contends that the separation distance between the proposed extension and Nos. 129-133 would exceed that recommended in paragraph 7.04.02 the Central Bedfordshire Design Guide 2014 (the 'Design Guide'). I concur with the Council in that the guidance in that instance does not apply to extensions directly opposite habitable room windows.
18. I note the neighbouring building at No. 137 High Street South is currently used as an office. As there are no habitable rooms within this building directly facing the proposed extension, I do not consider that the living conditions of the neighbouring occupiers would be adversely impacted in terms of loss of privacy, outlook or light.

19. Given the above, the proposed development would adversely impact upon the living conditions of the occupiers of Nos. 129-133 High Street South with regards to a loss of outlook and light, in conflict with Policy HQ1 of the Local Plan, the NPPF and the Design Guide which together seek to ensure developments are well-designed and do not adversely affect the amenities of adjoining occupiers.

Living conditions of future occupiers

20. Proposed flat 2 would be served by a single window on the ground floor and a single window on the first floor. Both would be in close proximity and directly opposite the angled wall of the rear two-storey extension thus constituting a very poor outlook for the future occupiers. Also, the ground floor window would abut the entrance to the common staircase which would also serve flat 4. This layout would not provide appropriate privacy to the occupiers of flat 2 as the occupants of flat 4, visitors and delivery couriers would easily be able to look into the main living space of flat 2. Furthermore, due to the orientation and position of the buildings and despite the considerable width of the windows, the amount of light received within flat 2 would be inadequate, making this accommodation unpleasantly dark.
21. The appellant's reference to the Design Guide does not lend support to the proposal as the sketched example of a single aspect development in Fig 5.45 is not comparable to the scheme before me. Indeed, none of the windows shown in the sketch are directly oriented towards a double-storey wall. I accept single aspect designs can be acceptable in some circumstances and that some properties along High Street South may comprise single aspect flats. However, in this instance, the proposed layout would severely impact the living conditions of the future occupiers of flat 2 for the reasons set out above. I also note that the previous scheme approved in 2017 did not include windows directly facing the rear two-storey extension therefore it is not comparable to the current proposal.
22. Turning to the internal space standards, the 'Technical housing standards – nationally described space standard' document was published in 2015 and supersedes the standards set out in the Design Guide. Policy H2 of the Local Plan, provided to me by the Council during the appeal process, also sets out that all residential development will be assessed against the Nationally Described Space Standards. The space standards document states that a two-storey one-bedroom unit should have a minimum gross internal floor area of 58 square metres (sqm). Therefore, flats 1, 2 and 3 do not meet the nationally described space standard and poor quality, cramped living accommodation would be provided for the intended occupiers of these flats.
23. Given the above, I conclude that satisfactory living conditions for the future occupants with regard to internal space, access to light, privacy and outlook would not be provided by the appeal proposal. It would therefore conflict with Policy HQ1 of the Local Plan, the NPPF and the Design Guide which together seek to ensure developments are well-designed and do not have unacceptable adverse impacts on amenity.

Other Matters

24. I acknowledge that the proposal would boost the supply of housing in the locality and that national policy supports the development of small and medium

sized sites. I attach moderate weight to these matters given the quantum of development but consider that the adverse impacts on the living conditions of neighbouring and future occupiers and on the character and appearance of the conservation area to significantly and demonstrably outweigh the benefits cited.

Recommendation

25. For the above reasons, the proposal would conflict with the development plan taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan.
26. Having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

27. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be dismissed.

RC Kirby

INSPECTOR