



Appeal Decision

Site visit made on 20 December 2021

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th January 2022

Appeal Ref: APP/Y0435/W/21/3282923

48D Stratford Road, Wolverton, Milton Keynes MK12 5LW

- 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 A Nangiana & Mr S Khan against the decision of Milton Keynes Council.
 - The application Ref 21/01426/FUL, dated 9 May 2021, was refused by notice dated 15 August 2021.
 - The development proposed is the change of use of retail (Use Class E) to a self-contained dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appeal relates to a retail unit on the ground floor of a two storey building to the rear of No 48. The application form states that the proposed development would increase the number of studio flats from one to two. I have therefore determined the appeal on the basis that 48E on the first floor of the building is a studio flat.

Main Issue

3. The main issue in this appeal is whether the proposed development would provide acceptable living conditions for future occupiers, with regard to living space, the provision of outdoor amenity space and privacy.

Reasons

Living space

4. 48 Stratford Road is a corner building with a series of smaller buildings to the rear of No 48 that face Cambridge Street. The appeal relates to the retail unit, 48D, on the ground floor of the small end two storey building.
5. The appeal unit has a gross internal floor area of 26 square metres. This is considerably below the Nationally Described Space Standard (NDSS) for a one person, one bedroom dwelling. The NDSS states that for such a type of dwelling, if a shower room rather than a bathroom is provided, the minimum floor area is 37 square metres, plus 1 square metre of built in storage.
6. The proportion of floor area taken up by a kitchen, bathroom, bed, dining area and space to move around would be notable. In my judgement, what space would be left for other furniture, such as an armchair, draws and wardrobe,

together with other storage space for personal possessions would be very limited.

7. Policy HN4 of Plan:MK requires new dwellings to meet the NDSS standard as a minimum, unless it can be robustly demonstrated that this would not be feasible or viable.
8. It is stated that the use of the unit as a shop is not viable. This though is not the correct policy test in relation to viability. However, given the small size of the rear yard, and the need to retain the external staircase to No 48E above, it is clear that it would not be feasible to create a studio flat on the ground floor that would be NDSS compliant.
9. Taking all these matters into account, I therefore conclude that, by virtue of the policy exception in relation to feasibility, the very small living space provided by the proposed development would comply with policy HN4 of Plan:MK.

Amenity space

10. Policy D5 of Plan:MK in seeking a good standard of amenity advises that new proposals, amongst other matters, should provide private or shared communal garden space. In relation to a ground floor apartment the supplementary planning document 'New Residential Development Design Guide' (SPD) advises that this may take the form of a private garden. In keeping with the wording of policy D5, the SPD makes no distinction in this regard between new build apartments and apartments created through conversion.
11. The building has a small yard immediately to the rear which can only be accessed from No 48D by exiting the front door and walking along the side of the building. The yard accommodates an external staircase that provides access to the flat above and is too small to provide anything in addition to this other than storage for refuse bins and bicycles. The proposed studio flat would therefore have no private outdoor amenity space provided as part of the scheme.
12. The nearest areas of public amenity space referred to by the appellant are Radcliffe Square and the Secret Garden near the railway station. However, Radcliffe Square is a few minutes walk away and is a small busy urban square that does not provide the space or greenery required for an area of public amenity space which would compensate for the lack of on-site private provision. Whilst the Secret Garden is of higher amenity value it is located even further away and so also would not compensate. The canal and regeneration of Agora Shopping Centre has been referred to. However, in the absence of further details, I am not persuaded that either would provide nearby areas of public open space that would compensate for the absence of on-site amenity space provision.
13. Taking all these matters into account, I therefore conclude that in not providing any outdoor amenity space the proposal would result in unacceptable living conditions for a future resident and would be contrary to policy D5 of Plan:MK and the SPD.

Privacy

14. The sole window to the unit, and the small open plan area within it which would be used for eating, sleeping and living, would be the large shop window within the front elevation. Internal screens and / or curtains could be used to provide

privacy but would need to be kept in place at all times. This would result in a poor outlook for future occupiers and reduced levels of natural light.

15. Reference has been made to the former shops at 133 Church Street and 78A Aylesbury Road where such arrangements have been used. However, as I have not been provided with any further information regarding these developments it is unclear whether the windows in question serve the sole habitable room in a small unit, as with the appeal proposal, or serve only one of a number of habitable rooms each with their own window. As a result, reference to these properties, as well as the windows serving the terraced houses on these streets, has not altered my assessment of this issue.
16. The proposed development would therefore provide a poor level of privacy which could only be remedied by providing a poor outlook and reduced levels of natural light. As a result, the proposal would provide unacceptable living conditions for a future occupier, contrary to policy D5 of Plan:MK. In seeking a good standard of amenity this policy advises that new proposals, amongst other matters, should ensure a reasonable degree of privacy, a satisfactory outlook and satisfactory levels of sunlight and daylight.

Other matters

17. The appeal property is located within the Wolverton Conservation Area. As the proposal would not result in any external changes to the building, and the area is predominantly residential, the proposal would have a neutral effect on the character and appearance of the area. It would therefore comply with the statutory test in relation to new development in such areas.

Conclusion

18. The appeal site is located within Wolverton where the principle of residential development that complements the character and appearance of the area is supported by the development plan. Although the proposal would create a dwelling too small to comply with the NDSS it would not be feasible to create a larger dwelling on the ground floor. As a consequence, the proposal would comply with policy HN4 of Plan:MK.
19. For the reasons given above though in relation to amenity space and addressing privacy, the proposal would provide unacceptable living conditions for future occupiers, contrary to policy D5 of Plan:MK. This would also be contrary to the National Planning Policy Framework ('the Framework') which, amongst other matters, seeks a high standard of amenity for future residents¹. As a result, I find that the proposal would be contrary to the development plan considered as a whole. As a consequence, the proposal does not benefit from the Framework's presumption in favour of sustainable development.
20. The other considerations put forward in favour of the proposal, namely the social, economic and environmental benefits of bringing back into use an empty shop, for which there is not a demand, to provide an additional small unit of accommodation, are insufficient to outweigh the harm that would be caused and non-compliance with the development plan.
21. Reference has been made to permitted development rights which it is stated would allow the proposed change of use without the need for planning permission if the building was not in a Conservation Area. However, this is not

¹ Paragraph 130 f)

the case. Such rights no longer grant permission for a new dwelling that fails to meet the minimum NDSS space standard.

22. Material considerations therefore do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector