



Appeal Decision

Site visit made on 12 September 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2022

Appeal Ref: APP/P0240/W/22/3297664

58 Bullpond Lane, Dunstable LU6 3BJ

- 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 Reeves against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/04985/FULL, dated 5 November 2021, was refused by notice dated 20 January 2022.
 - The development proposed is new bungalow with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect upon the character and appearance of the area;
 - Whether or not acceptable living conditions would be provided for the existing occupiers of No 58 Bullpond Lane (No 58), having particular regard to the availability of private garden space;
 - Whether or not acceptable living conditions would be provided for future occupiers of the proposed bungalow, having particular regard to privacy; and
 - The effect upon the Chilterns Beechwoods Special Area of Conservation (the SAC).

Reasons

Character and appearance

3. The site is comprised of an area of garden land that, despite being fenced to its perimeter, serves No 58, a two-storey detached dwelling that occupies a spacious corner plot where Bullpond Lane meets Furness Avenue. The local area is predominantly residential and a variety of different property types, building heights, architectural styles, exterior finishes and side-to-side separation distances are observable. Even so, dwellings tend to be laid out in orderly rows setback from the highway and to occupy often spacious and well-vegetated individual plots. As such, despite the variations that I have pinpointed, a somewhat formal, spacious and green residential character and appearance is identifiable local to the site.
4. Corner plots in the locality perform an important role in maintaining a sense of spaciousness within the urban environment. This is because these plots

naturally lend themselves to providing space between different rows of development upon adjoining streets. Indeed, the site itself comprises a considerable portion of a corner plot and offers welcome and valuable breathing space between neighbouring rows of built development. Not dissimilar relationships can be observed to the opposite side of Furness Avenue relative to the site and at multiple close-by corner plot locations to the opposite side of Bullpond Lane. This is despite recent developments at Nos 39, 41 and 43 Bullpond Lane.

5. Given the positioning of No 58 and the presence of a sizeable two-storey projecting element to the front of No 2 Furness Avenue, I do not take specific issue with the intended alignment of the bungalow's front elevation. Even so, built development would cover close to the full width of the site. No longer would distinct separation between adjoining rows of residential development avail, which would be at odds with the established local pattern of development. Moreover, notwithstanding its modest single storey height and the extent of private garden space to be provided on site, the proposed bungalow would appear as a cramped, incongruous and unexpected addition to the streetscene.
6. For the above reasons, the proposal would cause harm to the character and appearance of the area. The scheme conflicts with Policy HQ1 of the Central Bedfordshire Local Plan (July 2021) (the CBLP) and the National Planning Policy Framework (July 2021) (the Framework) in so far as these policies require that proposals take account of opportunities to enhance or reinforce the local distinctiveness of the area.

Living conditions of occupiers of No 58 – availability of private garden space

7. It is my understanding that the Central Bedfordshire Design Guide (September 2014) sets out a minimum private garden space requirement of 60 square metres for houses containing three or more bedrooms. In this instance, despite No 58 having been extended in the past, the total garden area to be retained for the existing property would comfortably exceed this threshold. This would include private fenced off areas to the rear and side of the property, as experienced upon my inspection. Thus, whilst the garden space to the front of No 58 is readily visible from a range of vantage points, I am content that, in overall terms, an appropriate standard and extent of private garden space would avail for the occupiers of No 58.
8. For the above reasons, without prejudice to my character and appearance findings above, acceptable living conditions would be provided for the existing occupiers of No 58 having particular regard to the availability of private garden space. The scheme satisfactorily accords with Policy HQ1 of the CBLP and the Framework in so far as these policies require that development proposals do not have an unacceptable adverse impact upon nearby existing or permitted uses, including impacts on amenity.

Living conditions of future occupiers – privacy

9. No 58 is served by a large south-west facing bedroom window at first floor level, which directly overlooks the appeal site. The appellant has proposed that this window be removed, and a replacement be located to the elevation of No 58 that faces Furness Avenue, which, he has suggested, could be secured via planning condition should the appeal be successful. The Council has

confirmed that such a window re-siting would address its concerns relating to direct loss of privacy and overlooking. I too am content that this approach would alleviate any potential unacceptable loss of privacy for future occupiers.

10. Having carried out an internal inspection of the bedroom in question, I am satisfied that the window could be relocated without having adverse implications for the quality of the internal living environment at No 58. Furthermore, the Furness Avenue facing elevation of No 58, which occupies a stepped back position relative to the grounds of a care home situated opposite, already contains multiple window openings at first floor level. A further opening would not offer views of sensitivity or material difference to those views already available. As such, had this appeal been successful, full details and subsequent implementation of first floor amendments at No 58 would have been reasonable and necessary to secure via condition. Such an approach would not have prejudiced the interests of any party with a potential interest in the outcome of this appeal.
11. For the above reasons, subject to the imposition of a condition as described above, acceptable living conditions would be provided for future occupiers of the proposed bungalow having particular regard to privacy. The scheme satisfactorily accords with Policy HQ1 of the CBLP and the Framework in so far as these policies require planning decisions to ensure that developments create places with a high standard of amenity for future users.

The SAC

12. The site lies within a recently prescribed Zone of Influence where likely significant effects upon the SAC from net increases in residential development due to recreational impacts cannot be ruled out. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. For the avoidance of doubt, even if I had done so and identified no adverse effect upon the SAC's integrity, it would not have affected my overall conclusions on this appeal.

Other Matters

13. I have noted objections/concerns raised with respect to matters including potential loss of privacy for neighbouring occupiers, the effect upon the living conditions of future occupiers as regards outlook, loss of light and the standard of amenity space to be provided, parking/highway safety and the effect upon wildlife. However, as I have found the scheme to be unacceptable for other reasons, it is not necessary for me to explore these matters any further here.

Planning Balance

14. As indicated at paragraph 11 of the Framework, the presumption in favour of sustainable development is engaged in circumstances that include where the policies most important for determining a scheme are out-of-date. This

includes, with respect to proposals for housing, where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.

15. A recent appeal decision¹ has been brought to my attention by the appellant where the Inspector identified that the Council's supply of housing land falls marginally beneath five years. The Council has disputed that Inspector's conclusions and has sought to suggest it can in fact demonstrate a supply figure of more than five years.
16. If I were to accept the appellant's position, the presumption in favour of sustainable development would be engaged. For decision making this would mean that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
17. I have identified conflict with Policy HQ1 of the CBLP. This is a recently adopted policy that is consistent with the Framework in so far as it requires planning decisions to ensure that developments are sympathetic to local character. I apportion significant weight to this conflict and to the associated harm that I have identified would be caused to the character and appearance of the area.
18. The proposal would deliver an additional housing unit in a location with good access to facilities and services where the principle of housing development is supported by Policy SP7 of the CBLP. Indeed, the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an efficient use of land. Nevertheless, merely a single additional unit is under consideration such that, even if I were to accept the alleged lack of a five-year housing land supply, the delivery of new housing would attract moderate weight as a scheme benefit.
19. The development would also create jobs during the construction phase and would, most particularly once occupied, provide support to the local economy and local community facilities and offer additional Council Tax revenue. These benefits attract limited weight due to the quantum of development under consideration.
20. Having considered the benefits and adverse impacts of the scheme that is before me, I conclude that the harm and associated policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. Thus, it is unnecessary for me to deduce whether or not a five-year supply of housing land exists. This is because, even should it not, the presumption in favour of sustainable development, as set out in the Framework, would not apply. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

21. Whilst I have found the proposal to be acceptable with respect to the availability of private garden space for existing occupiers and the standard of privacy to be offered for future occupiers, I have identified harm to the character and appearance of the area. This significant harm is the overriding

¹ APP/P0240/W/21/3289401

consideration in this case. Thus, for the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR