



Appeal Decision

Site visit made on 31 August 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022

Appeal Ref: APP/P0240/W/22/3294246

3A and 3B Earl Close, Clifton SG17 5RS

- 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 David Gill of Gill Hudson Homes Ltd against the decision of Central Bedfordshire Council.
- The application Ref CB/21/03664, dated 6 August 2021, was refused by notice dated 6 October 2021.
- The development proposed is the retention of 2 attached dwellings and ancillary works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The dwellings have been constructed and therefore I am considering this appeal retrospectively.
3. At the appeal stage, amended plans were submitted. These show revised driveway details and provide clarifications around the siting of external amenity areas. Whilst these plans did not form part of the original planning application, and an appeal should not be used to evolve a scheme, the changes are minor and do not fundamentally change the development proposed. There has been the opportunity for the Council to comment on the plans at appeal, and I have taken them into account.
4. An executed copy of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990, dated 8 August 2022 has been submitted. It has been prepared to overcome the fourth reason of refusal detailed on the Council's decision notice. It relates to the Council's requirement for local infrastructure provision. I deal with this matter further below.

Main Issues

5. The main issues are:
 - whether the development provides adequate living conditions for current and future occupants, with particular regard to internal and external space and outlook;
 - the effect of the development on highway safety;
 - the effect of the development on the character and appearance of the surrounding area;

- the effect of the development on the living conditions of the occupants of adjoining Plot 3, with particular regard to overlooking; and
- the effect of the development on surface water drainage.

Reasons

Living conditions for current and future occupiers

6. The submitted drawings indicate two 1 bedroom, 1 person units. Table 1 of the Technical Housing Standards - Nationally Described Space Standard (2015) requires that 1 bedroom, 1 person dwellings over a single storey should measure at least 37 square metres, where served by a shower room instead of a bathroom, which is the case here.
7. The submitted documents set out that each of the dwellings measure approximately 28.5 square metres. As such, based on the submitted plans, each unit would fall significantly under the minimum floorspace requirements for a 1 bedroom, 1 person residential unit.
8. The appellant describes the units as simple and functional 'starter homes'. However, there is no substantive evidence before me as to why the dwellings should therefore not accord with national internal space standards. Consequently, the limited size and cramped internal layout of the dwellings is harmful.
9. In respect of outlook, both units would be served by windows to the living room and kitchen areas together with a bedroom window. The distance between the windows and adjoining boundary treatments to the side and rear of the dwellings is limited. These boundary treatments consist of tall timber fences which dominate outlook. Irrespective of the use of these rooms as bedrooms, which in any case would be regarded as a habitable room, the overall level of outlook is poor and occupiers would likely experience an unacceptable sense of enclosure as a result of the layout of the dwellings.
10. An amended plan has been submitted with the appeal setting out two amenity areas in connection with the two residential units. One such area would exist to the front of the site, the other to the rear. No further information in respect of the treatment of these areas has been provided. The position of the amenity space to the front of the appeal site is such that members of the public and users of the highway would pass it, and would be able to obtain direct views into the space. As a result, occupiers would have little privacy in what would be their only amenity space.
11. I note the appellant's comments in respect of the Council's design guide¹ and its reference to potentially lower demand for larger outdoor space for flats and smaller homes. Although the Council's design guide does not provide minimum size requirements for outdoor space for units accommodating less than 2 bedrooms, I note that it does set out that outdoor space is encouraged and deemed important for both children and adults. This should be private and not overlooked from the street. Suitable space has not been provided here. Overall, the occupiers of the dwellings would experience a poor standard of accommodation, both internally and externally.

¹ Central Bedfordshire Design Guide (2014).

12. Consequently, I conclude that inadequate living conditions are provided, of substantial harm to current and future occupiers, with particular regard to internal and external space and outlook. This is contrary to the relevant provisions of Policies H2 and HQ1 of the Central Bedfordshire Local Plan (LP, 2021), which in summary seek to ensure an appropriate standard of accommodation. This is in a similar vein to the Council's design guide.

Highway safety

13. The parking area of the development is accessed via Earl Close, which serves a number of properties within the wider development.
14. The Council has objected to the scheme on the basis that the proposed access would not be served by sufficient pedestrian visibility splays to ensure it would be safe for users of the highway. I concur that without this there is a potential risk to pedestrian safety. This is emphasised by the fact that the entrance to the site is on a curve in the road, and adjoins the close-boarded timber boundary treatment of 4 Earl Close, limiting visibility for users of the driveway and pedestrians using the footway.
15. The appellant has indicated that pedestrian visibility splays could be provided by either use of the adjoining driveway or by revising the driveway of the appeal site within the red line area. The appellant has indicated a willingness to consider a planning obligation and sets out that the activity for the previously approved home offices on the site would have the potential to have greater activity than a residential use.
16. Whilst the revised visibility splays may be acceptable, I have no legal agreement before me to secure these measures. Moreover, I have no substantive evidence before me in respect of the activity associated with a garden office compared with a dwelling. As such, the proposed development would fail meet to the Council's objectives of ensuring that proposals for development do not have a detrimental effect on highway safety.
17. Consequently, I conclude that the development has the potential to cause considerable harm to highway safety, contrary to the relevant provisions of LP Policy T2, which in summary seeks to ensure that proposals for development do not have a detrimental effect on highway safety and patterns of movement.

Character and appearance

18. The appeal site comprises a pair of adjoining single-storey buildings in use as two separate dwellings. The buildings are finished in brick and tile and are set back from the principal building line along the street. Properties surrounding the site are generally formed of two-storey terraced or detached dwellings set within garden plots.
19. The development is small in scale and built of matching materials to surrounding properties. From that perspective, the development retains a subservient appearance relative to the larger properties to the north and south and has little appreciable effect on the street scene. Moreover, it is not uncommon for dwellings in the surrounding area to feature garages and outbuildings which are positioned close to nearby buildings. Some of these have only limited gaps between them, are setback from the front building line and are of a similar appearance and scale. This is the case here. For these

reasons, I do not find that the appeal buildings appear cramped in the context of the wider development and do not undermine its overall quality.

20. The area of hardstanding to the front of the site is visible from the public realm. However, this assimilates to an acceptable standard with the surrounding area, where similar forecourts and driveways exist. I note comments in respect of the addition of domestic paraphernalia to the area around the development. During my site visit this consisted solely of bins outside the property for collection. In any case, other domestic paraphernalia could be placed in front gardens within the wider development at any time. This, together with parked cars, is not an unusual feature in a residential context.
21. For the above reasons, I conclude that the proposed development has an acceptable effect on the character and appearance of the surrounding area, in accordance with the relevant provisions of LP Policy HQ1, which in summary seeks to achieve high quality design in development. This is in a similar vein to the objectives of paragraphs 130 and 135 of the National Planning Policy Framework (the Framework) insofar as good design is concerned.

Living Conditions of 3 Earl Close

22. The development projects beyond the rear elevation of adjoining 3 Earl Close (also known as Plot 3). Whilst two windows exist to the rear elevation of the development, near to and facing towards the rear amenity space of No 3, these windows are small, serve bathrooms and are fitted with obscured glazing. As such, there would be limited meaningful opportunity for a greater degree of overlooking and I do not consider there to be any unacceptable perceived loss of privacy.
23. Moreover, whilst boundary treatments cannot be relied on in perpetuity to give the same level of screening as at present, reasonably tall fences currently exist between the appeal site and No 3. The established boundary treatment in this location is typical of the surrounding area, and in my view is unlikely to be substantially reduced or lessened over time. Such screening could be conditioned if necessary.
24. Consequently, I conclude that the development would have an acceptable effect on the living conditions of the occupants of adjoining 3 Earl Close, with particular regard to overlooking, in accordance with the relevant provisions of LP Policy HQ1, which in summary seeks to ensure development proposals respect the amenity of occupiers of neighbouring buildings, including in terms or privacy.

Surface Water Drainage

25. LP Policy CC5 requires that all development that results in areas of hard standing or which could impact on surface water flow paths will be required to use sustainable urban drainage systems to reduce surface runoff. This is largely to ensure that flood risk is reduced. The policy includes a requirement that development proposals demonstrate maintenance responsibilities for the surface water drainage system in the form of a management and maintenance plan.
26. The development includes areas of hardstanding. This is alleged not to be significantly greater than what was approved at the site under previous

planning permissions. I also note that the development has been implemented in accordance with the previously approved drainage strategy relating to the wider outline scheme². This set out that surface water for adjoining plots 4, 5 and 6 would be drained by soakaway. However, the appeal proposal is independent of that previous permission. I do not have substantive information before me to indicate if this previous drainage strategy took into account the use of the appeal buildings as individual dwellings, rather than ancillary office accommodation, and any effect this may have. I note that the Council have suggested the inclusion of an appropriately worded condition in respect of further details. I consider this to be reasonable.

27. In respect of maintenance and management arrangements for any off-site elements, I am not convinced that this needs to be part of a legal agreement. Whilst I consider that such provision is necessary, given that it would need to be maintained and managed, this too could be achieved through a suitably worded planning condition, the wording of which has been suggested by the Council. Therefore, in my view, there is no requirement for this to form part of any legal agreement.
28. In conclusion, and subject to conditions requesting further details, the development is acceptable in respect of surface water drainage, in accordance with the relevant provisions of LP Policy CC5, which seeks to ensure sustainable drainage systems and the reduction of flood risk.

Other Matters

29. I acknowledge that the principle of development in this location has been accepted, the site being associated with previous planning permissions³. I also acknowledge that the proposed one-bedroom units would contribute towards housing mix.
30. The appellant has set out that the previous permissions did not prohibit the use of the buildings subject to this appeal and that the Council have registered the properties for the purposes of 'community charge'.
31. Nevertheless, none of these matters or any benefits, either individually or cumulatively, change my conclusion on the main issues or outweigh the harm I have identified and the conflict with the development plan.
32. My attention is drawn to appeal reference APP/P0240/W/21/3289401 relating to a site at Stotfold. I note that the number of homes proposed under that scheme would be 181 compared with 2 under this appeal and that the Council, at the time, did not have evidence to demonstrate a five year housing land supply.
33. The two schemes are not directly comparable, with the economic and social benefits of two additional properties likely to be relatively limited. The development is contrary to the development plan as a whole, and the relevant policies are broadly consistent with the Framework. Therefore, even were I to agree with the appellant's figures with regard to housing supply, the harm I have identified would significantly and demonstrably outweigh any benefits.

² CB/18/01628/OUT

³ Refs CB/18/1628/OUT and CB/19/03941/RM.

34. The Council's fourth reason for refusal relates to local infrastructure and the requirement for financial contributions towards community and leisure facilities in the local area. An executed unilateral undertaking has been provided by the appellant with the appeal to secure the required financial contribution of £2,168.33 and £755 respectively. However, given that I am dismissing the appeal for other reasons, it has not been necessary for me to consider this matter in any further detail.

Conclusion

35. For the reasons above, having had regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR