



Appeal Decision

Site visit made on 1 November 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th December 2022

Appeal Ref: APP/K0235/W/22/3295216

**Land At the corner of Bedford Road and St Johns Street, Kempston
Bedfordshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Naveed Rehman against Bedford Borough Council.
 - The application Ref 21/03007/FUL, is dated 3 November 2021.
 - The development proposed is the erection of one new single storey two bedroom dwelling with loft and one new double storey three bedroom dwelling.
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Decision

1. The appeal is dismissed and planning permission for the erection of one new single storey two bedroom dwelling with loft and one new double storey three bedroom dwelling at land at the corner of Bedford Road And St Johns Street, Kempston, Bedfordshire, is refused.

Preliminary Matters

2. The Council failed to determine the application within the prescribed period. However, following the submission of the appeal, the Council have prepared an officer report. This advises that had the Council determined the application, planning permission would have been refused. Putative reasons for refusal are given and identify that the principal concerns relate to the main issues set out below.
3. An amended proposed block plan has been submitted as part of the appeal, which shows revised parking arrangements. The Council has had the opportunity to comment in relation to the amended plan, as such no injustice would occur should I determine the appeal on the basis of the amendment.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposal would provide satisfactory living conditions for future occupiers having particular regard to outlook, privacy and noise;
 - the effect of the proposed development on highway safety, having specific regard to the access, turning and parking provision; and

- whether the development would make appropriate provision for the storage of refuse and cycles.

Reasons

Character and appearance

5. The appeal site comprises a vacant parcel of land which is currently overgrown. It lies in an urban area, which includes a mixture of residential and commercial development of various architectural styles. The site occupies a prominent corner plot at the junction of Bedford Road, St Johns Street and Kempston High Street. The adjoining flatted development at Horseshoe Court includes 2 storey and 3 storey elements and is orientated to front both Bedford Road and St Johns Street, with an enclosed courtyard to the rear. This arrangement of frontage style development reflects the surrounding development at the junction, albeit Horseshoe Court is set back from St Johns Street, with an intervening area of open space. Despite the degree of enclosure of the site, due to the hoarding to its boundary, its undeveloped nature, together with the open space opposite the site at the junction of Manor Drive and Kempston High Street and sections of wide footpath, contribute to a pleasant sense of openness to the area.
6. The proposed dwellings would be orientated at a right angle to the part of Horseshoe Court that fronts St Johns Street, located between it and the highway. The proposed 2 storey side elevation of the development would project a significant distance forward of the existing building at Horseshoe Court, a short distance from the back of the footpath. As a result, the proposed development, specifically the unit closest to the highway (Plot 2), would appear unduly visually dominant when viewed from St Johns Street and would be an anomalous feature at odds with the existing layout. In addition, as a consequence of the siting and layout of the dwellings, with limited space to the front, the development would appear unduly cramped and contrived with no space for landscaping to the frontage of the units or site boundaries, to the detriment of the appearance of the development.
7. Furthermore, the siting and orientation of the development would mean that the dwellings would be set back from the elevation of Horseshoe Court which fronts Bedford Road. This arrangement, together with the enclosed rear garden space with fence extending to the back of the footpath, in a prominent position at the junction, would fail to reflect the prevailing pattern of the surrounding development.
8. The scale, design and external materials of the proposed dwellings would not be dissimilar to that of the surrounding development, which includes single storey buildings and properties of a variety of building styles, including hipped roofs. The staggered roof heights would also reflect that of Horseshoe Court.
9. Notwithstanding this, for the foregoing reasons I conclude that the proposal would harm the character and appearance of the area. Accordingly, it would conflict with Policies 28S i), ii) and viii), 29 i), ii) and viii) and 30 i) and ii) of the Bedford Borough Local Plan 2030 (the LP) which seek high quality design which responds to the surrounding context, including landscaping.
10. The proposal would not conflict with advice in design codes N1 and N2 of the Council's design guidance; Residential Extensions, New Dwellings and Small

Infill Developments (2000) (RENDSID), which require development to harmonise with its setting having regard to shape, character and scale, as well as detailed design and materials.

Living conditions

11. The proposal includes a ground floor opening in the side elevation of the unit closest to Horseshoe Court (Plot 1). It would be the only opening serving the living room and would be sited a short distance from the side boundary of the site and the neighbouring 2 storey development at Horseshoe Court. However, the frontage of the 2 storey building is staggered at this point, resulting in a degree of separation between the proposed side window and the adjoining building. This would ensure that the neighbouring building at Horseshoe Court would not appear unduly dominating when viewed from the window in the side elevation of the proposed dwelling on Plot 1. The rear windows in the proposed dwelling on Plot 1 would be a greater distance from the elevation of Horseshoe Court which faces the application site. Furthermore, the neighbouring building at Horseshoe Court, which is parallel to the side boundary of the application site, would be set back from the rear elevation of the proposed dwelling, which means there would be no direct view of Horseshoe Court from the rear windows in the proposed dwelling on Plot 1.
12. As a consequence of the siting and orientation of the proposed dwelling on Plot 2, the existing development at Horseshoe Court would not appear unduly imposing in views from the rear windows in the proposed dwelling, given that it would be seen at an oblique angle. As such the future occupiers of the proposed dwelling at Plot 2 would benefit from an acceptable outlook from windows in the property.
12. However, the height and scale of the building at Horseshoe Court and the proximity to the side boundary of the appeal site are such that it would appear as an unduly imposing feature when viewed from the rear private amenity space of the proposed dwellings. As such the proposal would fail to ensure an adequate level of outlook for future occupiers of the proposed development, in relation to the rear garden areas.
13. The neighbouring 3 storey building at Horseshoe Court includes a number of first and second floor openings in close proximity to the side boundary of the private rear garden space to Plot 1. This would give rise to a significant degree of direct overlooking of the rear garden space of the proposed dwellings. Whilst the rear garden of Plot 2 would be set a greater distance from Horseshoe Court and any views would be across the adjoining garden, as a result of the height of the building and number of windows, it would nevertheless lead to overlooking of the garden of the proposed dwelling.
14. I therefore conclude that the proposal would fail to provide satisfactory living conditions for future occupiers of the proposed dwellings having regard to the overbearing nature of the adjoining development and lack of privacy to the rear garden space of the proposed dwellings. The proposal would therefore conflict with LP Policy 32 iv) in so far as it requires that proposals should ensure that they take account of the effects of disturbance to neighbours, including overlooking. It would also conflict with advice in the RENDSID, design codes N5 and N7 which seek to ensure that development achieves appropriate levels of privacy and does not have an overbearing effect on adjoining occupiers.

15. The appeal site lies at a busy road junction, which is likely to generate a degree of noise. I have not been presented with any evidence that the design of the proposed development would address environmental noise and achieve relevant standards. In the absence of such evidence, I am not convinced that the proposed development would achieve appropriate living conditions for future occupiers having regard to noise.
16. Consequently, the development would be contrary to LP Policy 47S v) which requires development to be appropriate to its location, having regard to the existing noise environment. The Council also refer to Policy 32 i) and iv), however this refers specifically to the potential impact of the development in terms of noise disturbance it may generate.

Highway safety

17. There is an existing drop kerb to the boundary of the appeal site with St Johns Street. I am not aware of the status of this access and as such I give it little weight. The proposed access to serve the development would be in close proximity to the junction of St Johns Street, Bedford Road and Kempston High Street. The Highway Authority state that visibility at the site access towards the junction is below normal standards. It is approximately 31m, which would fall short of that required in Manual for Streets of 43m in a 30mph speed limit. Therefore, from the evidence before me I am not persuaded that the access would achieve the required visibility. Furthermore, the lack of turning space within the appeal site and narrow width of the shared access drive, would be likely to lead to vehicles reversing onto the highway, which would also compromise highway safety.
18. The amended scheme shows the provision of 2 parking spaces to serve the development. This would fall short of the Council's Parking Standards for Sustainable Communities: Design and Good Practice Interim Policy and Supplementary Planning Document (2014) which sets out a requirement for 4 parking spaces for a development of this size. This shortfall, together with the lack of visitor parking would be likely to lead to an increase in on-street parking in the vicinity. Given the demand for parking in the locality as a consequence of surrounding uses, even taking account of the nearby public car park, this would be likely to result in on-street parking which would in turn harm highway safety.
19. Whilst I note the appellant's suggestion that the reduction in car parking is in accordance with a move towards sustainable development and away from a reliance upon a private car, the Council have indicated that as the site is not within a Controlled Parking Zone, where car free developments would be deemed appropriate. Nor has evidence been submitted to demonstrate that car ownership levels would be low, in order to justify a departure from the adopted standards.
20. I note the appellant's comment that vehicles visiting the amenities opposite the site, including a convenience store and hot food takeaway, would reverse onto the highway close to the junction and there is no substantive evidence that this arrangement gives rise to highway safety issues. However, this takes place on the opposite side of the carriageway where vehicles are approaching the roundabout rather than leaving it. Furthermore, I am not aware of the policy context or specific circumstances that applied when this arrangement was created.

21. The appellant suggests that the reduction in car parking on the site, as shown on the amended plan, would enable vehicles to turn on site so they could enter and leave in a forward gear. However, there is no substantive evidence, in the form of vehicle tracking drawings, to indicate that there would be space for this to take place. Nor would it address the matter of the width of the driveway and difficulty for vehicles to pass one another. Moreover, a further reduction in on-site parking would conflict with the Council's parking standards.
22. I conclude therefore that the development would have an adverse effect upon highway safety as a result of restricted visibility, together with the lack of parking, turning and passing space within the site. It would therefore fail to accord with the aims of Policy 31 i) and iii) of the LP, with regards to access impacts of development, including that development should not have any significant adverse impact on, among other things, highway safety and should be accessible by all members of the community.

Refuse and cycle storage

23. The proposed layout shows the storage of refuse containers to the front of the properties. Whilst the dwellings are orientated such that they do not front the highway, due to the limited separation distance between the front of the dwellings and St Johns Street, the refuse containers would nevertheless form the foreground view of the dwellings from the public realm. Notwithstanding this, there is scope for bin storage within the rear gardens of the proposed dwellings, which could be secured through a suitable condition. Furthermore, there is no reason why the refuse containers could not be easily manoeuvred from an appropriate storage area to the highway for collection, subject to the provision of a suitable hard surfaced pathway, such as the proposed driveway for example.
24. Similarly, the appellant has indicated that there is ample space for cycle parking and storage on the site, which could also be accommodated within the rear gardens, and secured by condition.
25. Accordingly, subject to appropriate conditions, the proposal would accord with Policies 29 viii), 31 i), ii) and iii) and 32 v) of the LP, which require development proposals to integrate arrangements for, among other things, dealing with waste (including recyclable materials) storage and collection and cycle parking provision, as well as advice in the Council's Technical Guidance: Waste and Recycling in New Developments (2021) and Parking Standards for Sustainable Communities: Design and Good Practice Interim Policy and Supplementary Planning Document (2014).

Other Matters

26. The appellant has suggested that the proposed development would have a positive effect on the area's housing supply and would be in an accessible location close to nearby local services. Delivery of housing is a key objective of the LP, the Framework also seeks to boost significantly the supply of housing. However, the benefits associated with 2 extra units would be modest. Conversely, I have found harm relating to the character and appearance of the area and the living conditions of future occupiers of the dwellings, as well as highway safety and the weight I attribute to those would be substantial.

27. The fact that the proposal would meet the Technical housing standards – nationally described space standard (March 2015), would have an adequate amount of outdoor space and would not harm the living conditions of the neighbouring properties would not outweigh the harm set out above.
28. I understand that the appeal proposal is a resubmission, taking into account issues previously raised by the Council. However, I can only assess the current proposal on the basis of the information before me. I note the appellant is dissatisfied with the Council and also the appeal process. However, these are not matters for consideration as part of this appeal which relates to the planning merits of the proposal.
29. While the current condition of the site may not make a positive contribution to the character and appearance of the area, I have found that the proposal would cause lasting demonstrable harm for the reasons set out above. Furthermore, there is no compelling evidence before me that the existing site, if left undeveloped, would lead to fly tipping.

Conclusion

30. For the reasons given, the appeal scheme would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

Emma Worley

INSPECTOR