



Appeal Decision

Site visit made on 9 January 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2023

Appeal Ref: APP/N0410/W/22/3295044

37 Newtown Road, New Denham, Buckinghamshire, UB9 4BE

- 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 M O'Donnell against the decision of Buckinghamshire Council.
 - The application Ref PL/21/0379/FA, dated 28 January 2021, was refused by notice dated 29 September 2021.
 - The development proposed is erection of detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site visit procedure was changed from an access required site visit to an unaccompanied site visit because the appellant was not present when I arrived at the appeal site at the pre-arranged time and date. I was able to see all I needed to from public land.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on highway safety, with particular regard to the proposed access arrangements;
 - The effect of the proposal on the living conditions of the neighbouring occupiers of 35 and 37 Newtown Road, with particular regard to privacy and outlook; and
 - Whether the proposed new dwelling would provide for satisfactory living conditions for future occupiers, with particular regard to external amenity space.

Reasons

Character and appearance

4. The appeal site relates to a two storey semi-detached dwelling located on the south-eastern side of Newtown Road. It is set back from the road with a driveway to the front which extends to the side of the property. The plot is irregularly shaped and is narrower at the front and much wider at the rear. The rear garden of the property is therefore larger than other properties on this

side of the road. A public footpath is adjacent to the northern site boundary which continues to the field to the rear of the property.

5. The character of the surrounding area is largely residential. Newtown Road is characterised predominantly by semi-detached and terraced two storey dwellings which are set back from the road with small front gardens or driveways and larger rear gardens. Properties are arranged in a linear fashion with consistent building lines and a strong street scene presence, which contributes positively to the character of the area.
6. The proposed dwelling would be a two storey detached house sited within the rear garden of the host property. It would be set at an angle relative to the host property and close to the rear boundary of the site. The design and appearance of the dwelling would be generally sympathetic to existing neighbouring built form. However, due to its siting to the rear of properties on Newtown Road, the proposal would not have a street presence in the way that the existing properties do. The location of the proposal would be at odds with the prevailing character of Newtown Road in which dwellings are arranged in a linear way and directly face the public highway. Taking these factors together, I consider the proposal would be a backland form of development.
7. I saw no evidence of other such backland development in the surrounding area during my visit. Although domestic outbuildings within the gardens of the existing dwellings provide some built form to the rear of the properties, these are clearly read as ancillary structures to the frontage dwellings. Furthermore, they are of a significantly smaller scale than the appeal proposal and do not provide justification for it.
8. Unlike the existing frontage development on Newtown Road, the proposal would be positioned at an angle relative to the road rather than directly facing it which would emphasize the incongruous nature of the proposal. The siting of the proposal would be close to the rear site boundary with limited external space surrounding it, further emphasising the failure of the development to respect the prevailing pattern of development in the area. The proposed development would therefore appear cramped in relation to the size of the site.
9. The proposal would be partially visible from Newtown Road in the gap between Nos 35 and 37, from the public footpath to the north and the field to the rear. From these vantage points the proposal would appear as a prominent and intrusive feature.
10. For the above reasons, I conclude that the proposed development would be significantly harmful to the character and appearance of the area. It would be contrary to saved Policies EP3, EP4 and H9 of the South Bucks District Local Plan 1999 (LP) and Policy 8 of the South Bucks District Core Strategy 2011 (CS). Amongst other things, these policies require development to be of a high standard of design and be compatible with the character and amenities of the site, adjoining development and the locality in terms of scale, layout, siting, height, design, external materials, use and landscaping. It would also conflict with the overarching aims of the National Planning Policy Framework (the Framework) and the National Design Guide where these seek similar aims.

Highway safety

11. The development would be accessed via the existing driveway serving the host property. Part of the existing single storey extension to the side of the property would be removed to allow the driveway to be extended along the northern boundary. The plans indicate that the new driveway would be large enough to enable future occupiers' vehicles to turn within the site and enter and leave in a forward gear.
12. Due to the height of the garden fence to the northern site boundary immediately adjoining the access and a further high fence and hedge within the frontage of the neighbouring property, No 35, visibility for drivers emerging onto Newtown Road from the access is severely restricted to the north-east. This is likely to be reduced still further with vehicles parked on the road. According to the Highway Authority, the visibility from the access falls below 25m in both directions which represents a significant shortfall in the Highway Authority's requirement for visibility splays of 2.4m x 43m commensurate with a speed limit of 30mph. The appellant has not disputed these figures. Consequently, visibility for a driver emerging from the access would be very limited, particularly to the north-east, which would lead to a potentially hazardous situation not only for a driver emerging from the access but also for other road users approaching the access, including pedestrians on the footway.
13. I acknowledge that the driveway is already used to access the existing property and that vehicle speeds are likely to be low on Newtown Road due to its width and the presence of vehicles parked on the road. Nevertheless, the proposed dwelling would result in increased vehicle trips from future occupiers and those visiting the site, which would lead to greater use of a substandard access with a consequent risk to pedestrian and highway safety.
14. For the above reasons, I conclude that the appeal scheme would have an unacceptable effect on highway safety due to the proposed access arrangements. Thus the proposal would conflict with the Buckinghamshire County Council Highways Development Management Guidance document (2018) and Buckinghamshire County Council Local Transport Plan 4 (2016) which seek to ensure safe and suitable access and provision of appropriate parking. There would also be conflict with Framework paragraph 110 b) which seeks to ensure that safe and suitable access to development can be achieved for all users.

Living conditions of neighbouring occupiers

15. The proposed dwelling would be separated from No 35 by the public footpath. The front elevation of the dwelling would face towards the rear elevation of No 35 and that neighbour's rear garden. There is a mature evergreen hedge on the southern boundary of this neighbour's rear garden adjacent to the public footpath, and a high fence to the northern side of the appeal site, which would screen the lower part of the proposed dwelling from this neighbour's view. However, it is likely that the first floor windows of the dwelling would overlook the rear windows of No 35 and its rear garden at unacceptably close range. Such overlooking would be harmful to the neighbour's privacy, particularly if the existing hedge is maintained to a reasonable height.
16. The proposed dwelling would be bounded by the host property, No 37, to the west and would occupy a large part of the existing rear garden. No 37 has

habitable room windows to the rear elevation and a conservatory which would face towards the side of the proposed dwelling. The scale and height of the proposal, and its proximity to the rear elevation of No 37, would have a unacceptable overbearing effect on the outlook from the ground floor rear windows in particular. The proposal would also result in an undue sense of enclosure when viewed from the rear garden of No 37. I therefore consider that the proposal would be harmful to the living conditions of the host property due to its effect on outlook.

17. For the above reasons, I conclude that the proposal would adversely affect the living conditions of the occupiers of Nos 35 and 37 in terms of privacy and outlook. The proposal would therefore conflict with saved Policies EP3 and H9 of the LP which, amongst other things, seek to ensure that development does not adversely affect the amenities of nearby properties. The proposal would also conflict with Framework paragraph 130 f) which seeks to ensure that development provides a high standard of amenity for existing and future users.

Living conditions of future occupiers

18. The external amenity space for the proposal dwelling would consist primarily of a triangular area of land to the east of the dwelling which would adjoin the field to the rear. Whilst this area would be of limited size and irregular shape, it would provide a conveniently located and sufficiently useable outside space in my view. Future occupiers would also have access to an area to the front of the dwelling, a smaller area to the western side which would used partly for bin storage, and a patio to the rear. Subject to appropriate boundary treatment, it would be possible to afford these external areas adequate privacy.
19. For the above reasons, I consider that the proposal would provide for satisfactory living conditions for future occupiers, having regard to the provision of external amenity space. In this respect, the proposal would comply with saved Policies EP3, EP4 and H9 of the LP and Policy 8 of the CS, which, amongst other things, seek to ensure the use of land and buildings is compatible with the amenities of the locality and that development is of a high standard of design and includes appropriate landscaping and provision of usable amenity space. The proposal would also accord with paragraph 130 f) of the Framework which seeks to ensure that development provides a high standard of amenity for existing and future users.

Other Matters

20. I note the other concerns raised by interested parties, including the effects of the proposal on the living conditions of neighbouring occupiers in terms of sunlight, views, noise and disturbance, and on parking provision. However, the Council has not objected to the proposal on these grounds. Based on the evidence before me and my own observations, there is nothing that would lead me to reach a different conclusion in respect of these matters.
21. Paragraph 11 d) of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

22. The development would offer potential benefits in terms of providing a new dwelling in a sustainable location. Even if the Council could not demonstrate a five year housing land supply, the proposal would make only a limited contribution. Economic benefits would arise through employment opportunities created during the construction phase of the development and spending in the local area by future occupiers. Given the modest scale of the development proposed, the weight attributable to these matters is also limited.

Conclusion

23. Whilst I have found that the appeal scheme would provide satisfactory living conditions for future occupiers, having regard to the provision of external amenity space, this would be a lack of harm and thus a neutral factor. I have identified that the proposal would cause harm to the character and appearance of the area, highway safety and the living conditions of neighbouring occupiers. These harms would be wide ranging and long lasting and are worthy of significant weight. I find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
24. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR