



Appeal Decision

Site visit made on 17 January 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/P0240/W/22/3306855

Land adjacent to No.24 Rook Tree Lane, Stotfold, Hitchin SG5 4DQ

- 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 Bird against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/02059/FULL, dated 19 May 2022, was refused by notice dated 14 July 2022.
 - The development proposed is the erection of a one-bedroom single-storey dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area,
 - highway safety; and
 - the living conditions of future occupiers in relation to the provision of amenity space.

Reasons

Character and appearance

3. The appeal site is located within the garden to the side of the existing house at No.24 Rook Tree Lane (No.24), which is a two storey detached house occupying a large plot. It is located off Rook Tree Lane and accessed by a private trackway and its orientation means that the side of the existing house faces the road. A Public Right of Way (PROW) runs through the site and leads through to large open fields.
4. The surrounding area is predominantly residential and due to most of the houses having an open frontage along with mature trees and hedgerows contributes to the area having an open, spacious and leafy character and appearance.
5. The style and scale of houses in the area are mixed, which includes single-storey dwellings, so despite the variation in form they positively contribute to the character and appearance of the area.
6. The proposed dwelling, due to its siting, scale, form and design would appear an overdevelopment of the plot. Whilst single-storey dwellings are present in the area the proposal would leave little amenity space around the building

resulting in limited gaps between the building and boundaries, this would therefore result in the development appearing contrived within the plot. It would therefore erode the open character and appearance of the area.

7. The proposed dwelling is modest in size and, as a result, a small garden would not look out of character in the context of the other houses in the area, particularly the dwellings opposite and behind the house which all appear to have modest size gardens. No 24. Would also be left with a comparably sized garden.
8. Whilst the overall area of the garden exceeds the minimum standards for a 3 bedroom dwelling, the garden does not meet the minimum depth as recommended in the Design Guide which would further contribute to the contrived appearance of the proposal due to the small gaps between buildings and boundaries.
9. The proposal will be largely screened by the existing house; however, the proposal would appear prominent for those using the PROW. Whilst I have found the proposed garden and change to the existing garden does not look out of character in the area. The proposal would introduce built form, which would appear contrived and due to the proximity to the existing dwellings would begin to erode the open character of the area.
10. I conclude that the proposal would cause harm to the character appearance of the area. Therefore, I find conflict with Policy HQ1 of the Central Bedfordshire Local Plan 2015-2035 July 2021 (LP), which amongst other things seeks to ensure that development take account of opportunities to enhance or reinforce the local distinctiveness of the area and relate well to existing local surroundings. The proposal would also conflict with sections 1 and 5 of the Council's Design Guide¹ and the general design aims of the Framework.

Highway safety

11. The appeal site is accessed by a narrow private trackway which serves No.24, as well as No.22 Rook Tree Lane. The main road is subject to a 20mph speed limit and views are restricted from the access to the trackway by virtue of established hedgerows on either side of the access.
12. Although the proposal is only for one, modest sized dwelling, it would result in an increase in vehicle movements to and from the site. In particular, the proposal will likely result in a private car for the occupier as well as any potential visitors to the property.
13. The trackway falls short of the 4.8m width which is outlined in the Council's Design Guide. This results in a significant narrow width at the point of access and egress at the track to the adjoining road. This would result in only a single vehicle being able to enter and exit the site at any given time. Whilst it may be an infrequent occurrence, any vehicles trying to leave and/or exit the site at the same time would result in conflict. Vehicles would likely need to wait on Rook Tree Lane causing an obstruction and also conflict with any users of the PROW, which would not be in the best interest of highway safety.
14. Furthermore, the proposed plans do not show whether any suitable visibility splays could be achieved at the access point. The required visibility splays for

¹ Central Bedfordshire Design Guide – A guide for designing high quality new development September 2014

the proposal would be 2.4 metres by 25 metres and, in the absence of these being shown it cannot be demonstrated that access in and out of the site could be safely achieved.

15. I observed at the time of my site visit that visibility when leaving the private trackway is limited and would mean that vehicles exiting the site will be required to drive onto the pavement to see any oncoming traffic in either direction. I also saw that, the road was also being used to park a number of cars which made visibility even more restricted and could be exacerbated during peak times due to a school being in close proximity to the site.
16. I acknowledge that the end of the trackway might be used for turning vehicles at present, however I observed that there is very limited turning space available within the appeal site which will make it difficult for future occupiers, visitors and service vehicles to manoeuvre and leave the site in a forward gear.
17. I accept that the speed of vehicles along Rook Tree Lane is generally low, nevertheless, this does not change the existing situation with the access, and whilst only one dwelling is proposed this would still increase its use which in turn would increase the highway risks associated with it.
18. My attention has been drawn to a planning application that has been granted in the district however from the limited information in front of me the circumstances and merits of the case differ from this appeal. In particular the proposal would appear to be in a rural location with no immediate neighbours, which differs from the location of the appeal in front of me and the road constraints identified. In any event, I have dealt with the proposal on the evidence before me, and from my site observations.
19. I conclude that the proposal would cause significant harm to highway safety. It would therefore be contrary to Policy T2 of the LP, which, amongst other things, seeks to ensure developments provide safe and convenient access and have regard to the appropriate standards within section 1 of the Design Guide.

Living conditions

20. The Council's Design Guide at section 5.06 suggests a minimum depth for all rear gardens should be 10 metres. However, the Design Guide recognises that in certain circumstances this may not be possible and will vary according to property size with occupants of smaller homes. The Design Guide also does not suggest a minimum garden area for a one-bedroom dwelling.
21. The proposal would include an outside amenity space, which would fall short of the minimum depth guidance, which is a reasonable sized space for a small, one-bedroom dwelling. I note that however the proposal provides a larger area than is recommended for a 2- and 3-bedroom dwelling; the space provided is a good, useable space and, as such, I consider this sufficient for the proposal.
22. For these reasons, I find that the proposal would not cause harm to the living conditions of future occupiers. There would be no conflict in this regard with Policy HQ1 of the LP and section 5 of the Design Guide which amongst other things seeks to ensure the distinction between public and private spaces is clear.

Other Matters

23. There is some dispute as to whether the proposal would constitute back-land or infill development. However, as the principle of development has been accepted by the Council in this location, and I am dismissing for other reasons. I have no reason to explore this matter further.
24. I have had regard to the case law²³⁴ cited by the appellant which concern previous planning decisions and consistency as being material considerations. I do not disagree that there should be a consistent approach in regard to decision making. However, these do not justify a harmful development as I have identified above, and that I have found there would be significant conflict with development plan policies.
25. The appellant contends that the provision of a self-build dwelling is a positive benefit in favour of the scheme. The Government within Planning Policy Guidance (PPG) support such schemes to increase this type of development and places a legal duty on local planning authorities to enable such development. The definition of 'self-build and custom-build housing' is set out in the Framework⁵, and is based on the legal definitions contained in section 1(A1) and (A2) within the Self-build and Custom Housebuilding Act 2015 (as amended).
26. The Act requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. As set out in the PPG⁶ an Authority has 3 years to demonstrate that sufficient suitable permissions have been granted to meet a base period's demand. There is no substantive evidence before me to suggest that the proposal would comply with the relevant legal definitions of self-building housing, or that it would meet a currently identified Council need. As such, I give this consideration no weight.
27. I note that the proposal is designed to suit the appellants needs in respect of mobility, accessibility, ease of living, safety and health and wellbeing. In this regard, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, in particular the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and others. Following careful consideration of these particular matters I am satisfied that the impact of dismissing this appeal is proportionate and justified.
28. The LP in the pre-text of Policy H3 has also identified a shortage of specialist homes to suit elderly and disabled needs and whilst the proposal could be of some benefit in this regard. Nevertheless, there is no substantive evidence to confirm that the proposal would meet any identified need for such housing. Moreover, the application form indicates the proposal would be for market housing.
29. The proposal would provide some long-term economic benefits of supporting local facilities and public transport, as well as short term benefits during the

² Mann LJ in *North Wiltshire District Council v Secretary of State for the Environment* (1993)

³ *R (Mid-counties Co-Operative Limited) v Forest of Dean District Council* [2017]

⁴ *Baroness Cumberlege v Secretary of State for Communities & Local Government* [2017]

⁵ Annex 2 of the Framework refers to the definition of a 'self-build and custom-build housing'.

⁶ Paragraph: 023 Reference ID: 57-023-201760728: Revision date: 28 07 2017

construction of the dwelling; however, these would be minor benefits of the scheme and do not outweigh the harm I have identified.

30. The Council's fourth reason for refusal relates to the Public Right of Way (PROW) that runs through the site. The granting of planning permission does not authorise any obstruction to or interference with any PROW, as such, this is a separate legal issue and is not a matter for this appeal. In any case, as I am dismissing the appeal for other reasons there is no reason for me to consider this matter in further detail.

Conclusion

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

D Wilson

INSPECTOR