



Appeal Decision

Site visit made on 14 February 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/Y0435/W/22/3305523

Land adjacent to 68 Kenilworth Drive

- 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 Asif on behalf of Fymm Ltd against the decision of Milton Keynes Council.
 - The application Ref 22/00814/FUL, dated 8 April 2022, was refused by notice dated 1 June 2022.
 - The development proposed is new dwelling in garden land adjacent to 68 Kenilworth Drive consisting of a 2 bedroom detached house with 2 parking spaces.
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Decision

1. The appeal is dismissed.

Main Issues

The main issues are the effect of the proposed development upon:

- the character and appearance of the area; and
- whether the proposal would provide acceptable living conditions for future occupiers in relation to the provision of amenity space.

Reasons

Character and appearance

2. The appeal site is a parcel of land that sits behind 68 Kenilworth Drive, which is a terraced property located on a corner plot. The appeal site was previously part of the garden of No.68 however it has since been separated. Kenilworth Drive is a suburban area containing mostly terraced houses of a similar style and design. There are some larger semi-detached properties as well as a block of flats immediately opposite the appeal site.
3. The appeal site is fronted by an area of grassed amenity space which combined with other pockets of amenity space nearby, gives the area an open character and appearance. This area of amenity space also links with a larger area of amenity space which fronts No.68 and a number of other properties. As a result, the amenity space that fronts the site makes a positive contribution to this open character and appearance and also provides a transition to the larger, open space opposite No.68.
4. The proposed dwelling would also in part, protrude onto the amenity space to the front and a section of the amenity space would be occupied by an access and parking area. This would begin to erode the open character and

appearance of the area as a result of the loss of greenery and parked cars taking up this space.

5. I acknowledge that small front gardens and driveways are a characteristic of the area, as well as that there are porches in the area that protrude and the proposal would broadly follow this built form, combined with using similar materials to neighbouring properties. However, the amenity space at the front of the site makes a particularly positive contribution to the overall open character and appearance of the area and the loss of this public amenity space to a private driveway would lose the transition to the larger open area nearby.
6. A section of amenity space would remain next to the parking area and in front of the dwelling and, whilst not within the red line, this would have the appearance of being a front garden associated with the proposed dwelling. As a result, its link with the large open area nearby would be severed.
7. The Council's Plan:MK 2016-2031 Adopted March 2019 (Plan:MK) provides a definition of amenity open space and includes open areas, where recreational use is incidental to their primary function as attractive features in otherwise built up areas. I note that the Council's interactive mapping does not define the parcel of land immediately in front of the appeal proposal as amenity space; however, I have found that this space is an attractive feature that contributes positively to the character and appearance of the area and as such meets the definition of amenity space.
8. Policy L3 of Plan:MK sets out criteria for which a change of use of amenity open space will be granted. In which criterion 2 outlines, amongst other things, that if the land does not fulfil a useful purpose in terms of its appearance planning permission will be granted. In this particular case, I have found that the amenity space does have a useful purpose in terms of appearance. This being the case, the proposal would be contrary to this criterion.
9. The proposal would be located on a similarly sized plot to other dwellings in the area in terms of width, however it would introduce a detached dwelling at the end of a row of terraced dwellings, which would stand out as an unsympathetic addition to the existing built form of predominantly terraced houses.
10. I note that there are examples of semi-detached houses opposite the site, however these sit on much larger plots, both in terms of width and depth which is generally replicated on this side of the road. As such, whilst there is some variation in layout in the wider area, each side of the road tends to have its own layout. On the side of the road on which the appeal site is located, the built form is predominantly terraced which the proposal would not follow.
11. I note that the Council have previously granted planning permission for a dwelling on the site for which the Council concluded there would be no harm to the character and appearance of the area. However, the proposal in front of me differs from this scheme in that the proposed dwellings design differs and, includes an aspect that would protrude forward of the neighbouring dwelling and further into the amenity space than the previous scheme.
12. I therefore conclude that the proposal would cause harm to the character and appearance of the area. The proposal would therefore be contrary to Policies D1, D2, D3 and L3 of Plan:MK and Policies D1 and D2 of the West Bletchley Neighbourhood Plan 2016-2026 (NP). Amongst other things, these Policies seek

to protect amenity open space, ensure high quality design and create and enhance a positive character for the area.

Living conditions for future occupiers

13. The Council's design guide¹ (SPD) seeks to ensure that where family housing is proposed provision is made for private gardens to have a depth of 10 metres. The proposal includes a small rear garden which due to its angle would have a depth of less than 8 metres on the longest side and less than 5 metres on the shortest. As such, the garden depth is significantly less than the recommended distance contained within the SPD.
14. The Council's SPD does not define what constitutes family housing; however, as the proposal is for a 2-bedroom dwelling, it could be considered suitable for a family and occupied as such. In any case, it would be reasonable for future occupiers to expect an appropriate amount of private garden to be able to carry out their day-to-day activities.
15. In this particular case, the rear garden proposed would be the only available amenity space available for future occupiers and due to the short width and depth, space would be very limited. Cycle storage would also take up part of the garden which would further reduce the available space.
16. The appellant has drawn comparisons with the proposal and a 2-bedroom apartment. However, the development proposed is not an apartment and, in any case, occupiers of an apartment would not reasonably be expecting to have a private rear garden.
17. There is a large area of open amenity space nearby the site which could be used by future occupiers. However, whilst this space would provide additional value for future occupiers it would not replace the need for a private garden to be able to carry out normal activities.
18. I also note that a previous scheme was approved on the site with a garden that was less than 10 metres in depth. However, whilst the current proposed garden would be slightly wider, it would be shorter in depth than the previous proposal which results in a shallow and cramped private amenity space which would not meet the reasonable needs of future occupiers.
19. It is also contended by the appellant that the proposed garden is of a similar length and width of the remaining garden at No.68 as well as other dwellings in the area. However, the plans indicate that the garden of No.68 would be both wider and longer than the proposal and in general, other properties in the area have much longer gardens.
20. Taking these matters into account, I therefore conclude that inadequate private amenity space would be provided for future occupiers. The proposal would therefore fail to provide acceptable living conditions for future occupiers and be contrary to Policy D5 of Plan:MK, which, amongst other things, seeks to ensure that private garden space meets the reasonable needs of its users. It would also be at odds with the SPD which provides guidance on the provision of private rear gardens.

¹ New Residential Development Design Guide Supplementary Planning Document Adopted April 2012

Other Matters

21. I note that the appeal site does not hold any notable wildlife, is partly overgrown, enclosed by Heras and timber fencing and is not accessible to the public. However, these matters do not outweigh the harm I have found to the loss of the amenity space that fronts the appeal site.
22. I acknowledge that the appellant has invested savings into purchasing the land which may now be at risk and that the appeal proposal will provide a modest boost to housing in the area. However, these considerations do not outweigh the harm identified and as such I have given them limited weight.

Conclusion

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

D Wilson

INSPECTOR