



Appeal Decision

Site visit made on 5 April 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2023

Appeal Ref: APP/Y0435/D/21/3281169

3 Baily Court, Shenley Church End, Milton Keynes, Buckinghamshire, MK5 6DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs Papachristophorou against the decision of Milton Keynes Council.
 - The application Ref 21/01873/PNHSUE, dated 8 June 2021, was refused by notice dated 5 August 2021.
 - The development proposed is described as "Prior Approval of upward extension for an additional storey."
 - This decision supersedes that issued on 11th January 2022 (the previous decision). That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the appellant's original grounds of appeal¹ were centred on a strict reading of condition (3) (a) (ii) of Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), as was the previous decision. This reading would not empower the decision maker to assess the development in its wider context.
3. However, after the previous decision was issued, the CAB housing judgement² was handed down, which supports a wider interpretation of the condition, where such effects are material. Subsequently, the previous decision was found to be incorrect and was quashed by the High Court.
4. I have determined the appeal using a wider interpretation of the condition, where this is material, as supported by the CAB housing judgement. In doing so, I have attributed little weight to the appeal decisions³ referred to by the appellant in their original grounds of appeal, which follow a similar approach to the quashed decision.

¹ 21012 3 Baily Court, Shenley Church End, Milton Keynes, MK5 6DR - Grounds of Appeal

² Cab Housing v The Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 208 (Admin)

³ APPT/T1410/W/20/3263486 & APP/J1535/D/21/3266264

Main Issue

5. There is no dispute between the parties that the proposed development would be permitted under Schedule 2, Part 1, Class AA of the GPDO, provided it would meet the conditions set out at paragraph AA.2 of the Order. From the evidence before me, there is nothing to lead me to a different conclusion.
6. The main issue is, therefore, whether prior approval should be granted when the proposed development is assessed against condition AA.2 (3) (a) (ii) in relation to the external appearance of the dwellinghouse.

Reasons

7. The appeal property is a 2 storey linked detached house, set in the corner of Baily Court, a small cul-de-sac consisting of 4 very similar houses. All 4 houses are 2 storeys in height and the wider area is also made up of predominately 2 storey houses. The houses in the immediate area use the same palette of materials and have very similar forms, features, and roof profiles. This creates a strong degree of uniformity, which is a key component of the character of the immediate area. The appeal property, in its current form, adds positively to this uniform character.
8. The proposed development would add a third storey to the appeal property. The additional storey would replicate the existing roof profile, include a similar pattern of fenestration to that of the floors below and would use matching external materials. It would therefore be in keeping with the external appearance of the existing house.
9. Nevertheless, the resulting 3 storey house would appear incongruous in its 2 storey surroundings. Given the high degree of consistency in the immediate area, particularly within Bailey Court itself, the harm to the character and appearance of the area arising from the proposed development, in this regard, would be significant, despite it reflecting the existing design and styles of nearby properties. Furthermore, the positioning of the appeal property, within the corner of the cul-de-sac, does not lend itself to a building of distinction.
10. The appeal property is set back from Selby Grove. However, it would be visible from the entrance of Baily Court and prominent from within the cul-de-sac itself, as would the proposed development. Although there is an existing tree of a similar height to the appeal property that partly screens it, the additional storey would be taller than the tree and would therefore be seen above it.
11. I have given careful consideration to examples of similar development within Shenley Church End and as part of other new development within the wider area, referred to by the appellant⁴. However, these examples are quite a distance from the appeal property and do not form part of the group of similar houses that add to the uniform character of this part of Selby Grove and its side roads, such as Baily Court. Shenley Church End is a relatively large area with a variety of housing designs and styles, and the character of the areas where the examples are located, including further along Selby Grove, differ somewhat from the uniform character of Baily Court and its immediate surroundings.

⁴ Letter from Darren Murphy, Director of Inner Create Ltd, Re: Planning Inspectorate APP/Y0435/D/21/3281169: 3 Baily Court, MK5 6DR.

12. Moreover, it appeared on my visit that the merits and circumstance of these examples are different from the proposed development. The example given on Engaine Drive is a building consisting of 4 properties, Nos 53, 55, 57 and 59, rather than a single dwelling. It is located at the end of Knapp Gate, one of the principal roads providing access into Shenley Church End from Portway. As such, the location provides an important vista and termination to Knapp Gate and is therefore appropriate for a building of distinction.
13. The appellant also refers to a nearby property on Selby Grove. However, I have not been provided with any further details regarding the property. While I saw there are parts of Selby Grove further from the appeal property with less of a uniform appearance, from my observations on site, there are no properties within the immediate area that would lead me to consider that the proposed development would be acceptable.
14. Accordingly, the examples referred to are not determinative, and I afford them limited weight in my decision. In any event, I have determined the appeal on its own merits.
15. I acknowledge that the occupants of the neighbouring properties have not objected to the proposed development. Also, that the occupants of No. 2 Baily Court would like to undertake a similar development to that proposed, which the appellant considers would even out the aesthetics of the proposed development. Nonetheless, the absence of objection does not itself render the proposed development acceptable. I must determine the appeal before me, which does not include any changes to No. 2 Baily Court, nor is there any substantive evidence before me that these changes would be forthcoming contemporary with the appeal scheme.
16. In conclusion, for the reasons above, the resulting external appearance of the dwellinghouse, by virtue of its additional storey, would result in an unacceptable impact on the character of the local area.

Other Matters

17. The Council concluded that there would not be an adverse impact, as a result of the proposed development, upon the residential amenity of any adjoining premises. This is because the additional storey would not result in a visually intrusive proposal and the outlook afforded from the rear windows of Nos 2 and 4 Baily Court would not vary significantly. This would not be a contradiction to their conclusions regarding the impact of the resulting external appearance of the dwelling on the character and appearance of the surrounding area. On the contrary, from the evidence before me and my observations on site, I am of the same view that the proposed development would not be visually intrusive in this regard, and this does not lead me away from my findings on the main issue.
18. It has been put to me by the appellant that the only way their family can afford to stay within the school catchment area is to extend their current residence. While I sympathise with this, the provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of the matters set out at paragraph AA.2 (3) of Schedule 2, Part 1, Class AA of the GPDO, taking into account any representations received. I have determined the appeal on the same basis.

Conclusion

19. For the reasons above, the appeal is dismissed.

Hannah Guest

INSPECTOR