



Appeal Decision

Site visit made on 23 May 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/P0240/W/22/3311010

Flaxbourne Farm, Salford Road, Aspley Guise, MK17 8HZ

- 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 G Barrett against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/05519/FULL, dated 10 December 2021, was refused by notice dated 27 September 2022.
 - The development proposed is the change of use of a commercial building to 4 residential units and related external alterations (Retrospective).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the occupants of the dwellings would have reasonable living conditions;
 - The effect of the development on highway safety and the safety of pedestrians; and
 - Whether the Council can demonstrate a five-year supply of new housing sites in accordance with para 11 of the National Planning Policy Framework.

Reasons

3. Flaxbourne Farm comprises a collection of residential and commercial buildings and a wedding venue which lie in an area of countryside to the north-west of the village of Aspley Guise. The appeal site itself includes a two storey building with accommodation at first floor and lit by dormer windows and windows in the end gable. The proposal is to use the building as 4 flats – two on each floor.
4. The planning history of the site is relevant to this appeal. The Council issued an enforcement notice against the self-contained flats in November 2020 and a subsequent appeal against this was dismissed.¹ Under the ground (a) appeal the inspector found that while the development was suitable in principle in this location, and would not have a harmful effect on the character and appearance of the area, it would not provide acceptable living conditions for existing and

¹ APP/P0240/C/20/3264383

future residents. In this respect the inspector found that the activities associated with the neighbouring commercial uses were taking place close to and directly overlooked by the flats' habitable accommodation. The inspector upheld the notice and did not vary the requirements including to cease the residential use, and the period of compliance remained as 8 months from the date of the appeal decision (issued on the 31 August 2021).

5. The appellant has made this application in an attempt to show that the inspector's concerns have been or can be overcome.

Policy context and housing supply

6. The relevant development plan policies are contained within the Central Bedfordshire Local Plan which was adopted in 2021. The appellant suggests that the Council cannot demonstrate a five year supply of new housing sites in accordance with the requirements of section 5 of the National Planning Policy Framework (the Framework) and therefore restrictive policies in the Local Plan should be considered as out-of-date. In support of this an appeal decision is referred to² where the inspector concluded in August 2022, following a lengthy Inquiry, that at that time the Council had a 4.97 year supply. The Council have submitted its most recent detailed assessment of housing supply, as at 1st January 2023, which concludes that there is a 5.37 year supply.
7. On the evidence submitted on the appeal it has been reasonably shown that the Council can demonstrate an adequate supply at the moment and that relevant policies on housing in the local plan are not out-of-date.

Effect on residential environment and living conditions

8. The inspector at the previous appeal found that the appeal building with 4 flats was located within a predominately commercial environment and that there would be noise and disturbance principally arising from car valeting, repair and vehicle recovery. While the Council says there is a mix of uses, the appellant submits that it is now established that the previous builders yard use reverted to Class B1 and there is no lawful procedure for it to revert to B8. Therefore it is submitted that the flats would not be in close proximity to uses where noise would be inherent.
9. I noted at my site visit that the large shed like building to the south-east of the appeal building is vacant, however there appeared to be on-going commercial activity involved with the large building to the north-east of the appeal site. Moreover, there was HGV movement associated with this building including a lorry parked relatively close to the appeal site with the engine running all the time of my visit. Bedroom and living room windows in two flats face this way and some degree of disturbance can be anticipated from vehicle movements.
10. I have also borne in mind that it appears that the site is organised where visitors to the wedding venue are asked to use the track to the right when entering off the highway while catering and support staff use the access which passes the appeal building. Some activity passing the appeal site at unsocial hours can therefore be expected. I note that it is proposed to seal off the through-route with a hedge and make the gap pedestrian only, but the submitted site plan does not show how the wider site would be accessed after such a fundamental change.

² APP/P0240/W/21/3289401 – Land south of Arlesey Road, Stotfold.

11. The previous inspector also found that there was no external amenity space for the flats and that the landscaped area to the north-west of the appeal building was a dark space and heavily planted. This remains the case and I noted that the evergreen trees restrict the light that can enter the bedroom window of Flat 2. I note that the site plan is annotated to say that there will be a partial tree clearance in this area and replacement with new plants and shrubs. However, bearing in mind that the proposal is retrospective I have doubt over the precision and enforceability of a condition that seeks to make this area suitable as mainly open gardens for 4 flats.
12. Overall on this issue I find that it has not been demonstrated that the inhabitants of the four flats would have a reasonable residential environment and living conditions in terms of being away from a noisy environment. Neither have they been shown to have a reasonable aspect and outdoor amenity space, or if these matters be reasonably secured by condition. The proposal therefore conflicts with part 11 of Local Plan Policy HQ1.

Effect on highway and pedestrian safety

13. Highway and pedestrian safety issues were not main issues considered by the previous inspector but are raised by the Council and highway authority now. However, the inspector did note that the appeal site is within walking distance of Aspley Guise station and was not in an isolated location.
14. In terms of parking provision the submitted layout plan shows the creation of 6 parking spaces for the 4 flats which are shown to be laid out in an angled arrangement in their own space. The Council says that the size and nature of the spaces is sub-standard but it appeared to me on site that the space available is reasonable for the number of individual spaces proposed, however about half of the proposed area is taken up with mounds of earth. Despite this and the retrospective nature of the proposal I am satisfied that a condition could be imposed to require the formation of the parking spaces within a reasonable stated period.
15. The Council queries the location of parking displaced from the existing main house (said to be an HMO) but from my observation at the visit I am satisfied that there is sufficient space available within the overall site to accommodate the known residential uses without being likely to result in parking overspill or result in vehicles reversing out onto the adjacent highway.
16. The Council is also concerned about a lack of safe pedestrian access from the site to the roadside pavement that leads into Aspley Guise. I noted at the site visit that Salford Road was more than lightly trafficked and between the Flaxbourne Farm entrance and Aspley Guise the road has sweeping bends with restricted visibility and part of this section of road is subject to the national speed limit. I share the highway authority's concern that pedestrian movement arising from the four residential flats should not have to resort to walking on the limited highway verge for safe passage. The appellant appears willing to accept a condition requiring the provision of a pedestrian footpath up to the eastern corner of the site and on land within his ownership. However, to my mind there is uncertainty as to how and when this can be accommodated, and even if could take place, there would still be a significant part of Salford Road without a reasonable pedestrian facility.

17. Overall on this issue I find that while the necessary parking provision for the development could be secured, implemented and retained by condition, it has not been properly demonstrated that the pedestrian movement that would likely be generated by the residential use of the 4 flats can be provided in terms of safe movement to Aspley Guise. Therefore, the proposal conflicts with the provisions of Local Plan Policy T2, particularly parts 1 and 4.

Planning Balance

18. This appeal needs to be considered in the context of the earlier appeal decision and the inspector's reasons on why planning permission for the development should not be granted. Moreover the policies in the development plan have not been shown to be out of date because of housing supply.
19. On the main issues I have found that it has not been demonstrated that the residential environment of the flats is reasonable as the living conditions of the occupiers are still likely to be harmed by noise and disturbance from the coming and goings associated with the other activities on the overall site of Flaxbourne Farm. Further, the residential development at this site has not been shown to be well integrated with Aspley Guise by safe walking and this would harm pedestrian safety.
20. These factors constitute adverse effects and I find that they cannot reasonably be overcome or mitigated by the imposition of conditions.
21. The proposal therefore conflicts with the relevant provisions of the development plan and this is not outweighed by any other consideration. The appeal should therefore not be allowed.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR