



Appeal Decision

Site visit made on 13 June 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/K0235/W/22/3306248

18 Tithe Road, Kempston MK43 9BE

- 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 Mrs Tina Harrison against the decision of Bedford Borough Council.
 - The application Ref 22/01160/FUL, dated 18 May 2022, was refused by notice dated 14 July 2022.
 - The development proposed is the construction of a new dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relevant to this appeal are:
 - the suitability of the site as a location for a residential development;
 - the effect of the development upon the character and appearance of the surrounding area;
 - the effect of the development upon the living conditions of the occupiers of the neighbouring property, with particular reference to outlook and privacy;
 - the effect of the development upon biodiversity; and
 - the effect of the development upon flood risk.

Reasons

Suitability of the site

3. The appeal site consists of an area near to the settlement. The wider area contains several dwellings that are of varying sizes. The area beyond is predominantly rural in nature and comprises open countryside. In addition, the roads leading to the appeal site are relatively sinuous in nature and lacking in separate environments for pedestrians and cyclists.
4. In considering this appeal, I have been directed towards Policy S7 of the Bedford Local Plan (2020) (the Local Plan). Amongst other matters, this seeks to direct new dwellings to the built form of Small Settlements. Wood End is such a settlement. However, the appeal site is separated from other dwellings on the same side of Tithe Road by a cluster of trees. In addition, the appeal site is separated by other houses in Tithe Road by notable landscaping at the front of the site.

5. Given these relationships and the presence of agricultural land to the rear and side of the appeal site, the proposal cannot be considered to be in the built form of Wood End. Therefore, the proposed development would breach this policy. Furthermore, this means that the development should not be assessed against Local Plan Policy 6.
6. This poses a concern as one of the purposes of Policy S7 is to ensure that new developments are accessible by several different transport methods, rather than private cars. In addition, it is intended to ensure that the occupiers of the development have suitable access to services and facilities that they are reasonably likely to require on a relatively frequent basis. This is necessary as the level and type of services that are available near to the appeal site are commensurate with what might be expected in a rural area.
7. Although there is a bus stop in Wood End, the level of service is comparable to that experienced in rural areas. Therefore, the limited availability is likely to deter travelling by public transport and ensure that occupiers of the development would be reliant upon private cars as the primary means of travel.
8. The proposed development would be located near to other dwellings in the surrounding area. However, given that the proposed development would result in the creation of another dwelling it would, in turn, result in a notable increase in journeys being made to other locations in conjunction with other developments. This would conflict with the Development Plan. There may be a need for the development and that no agricultural land would be lost. However, these matters are outweighed by the previous points.
9. My attention has been drawn to a previous appeal decision in respect of the site. However, subsequent to the determination of this appeal, there has been a notable change in the development plan. I must give weight to the current planning policies. In addition, the previous appeal decision describes the appeal site as being adjacent to the settlement, rather than within it. Therefore, I do not find that the previous appeal decision allows me to disregard my previous concerns.
10. I therefore conclude that the proposed development would not be in a suitable location. The development, in this regard, would conflict with Policies 4S and 7S of the Local Plan. Amongst other matters, these seek to direct new developments to a hierarchy of settlements, and the built form of small settlements.

Character and appearance

11. The appeal site consists of a plot located near to other dwellings. Of particular note, the appeal site is near to the semi-detached dwellings of 18 and 20 Tithe Road. These dwellings are located perpendicular to the road and are set back from the highway edge by a notable distance. Owing to this, and the presence of space around buildings, the appeal site and the surrounding area have a predominantly open and less-developed character.
12. The proposed development would result in an increase in the overall level of built form. This would comprise the presence of a dwelling that would have a notable height and a footprint significantly larger than several other dwellings in the surrounding area.

13. In addition, the proposed development would conflict with the pattern of development that is present within the immediate vicinity for it would front Tithe Road. This would conflict with the arrangement of 18 and 20 Tithe Road, which are orientated away from the road. Therefore, the proposed development would appear discordant within this context.
14. In addition, there is a likelihood that, as a dwelling, there would be items of domestic paraphernalia in the gardens. In addition, the proposed development also features notable areas of hardstanding for use as car parking and vehicle manoeuvring areas.
15. These would add to a generally developed appearance. In result, there would be a conflict with the more open and rural surroundings as these add to the overall level of built form and reduction in verdant areas. These factors, when combined, would render the proposed development incongruous.
16. In addition, a notable feature of the appeal site is the presence of a mature trees and planting near to the front boundary. The proposed development would result in a removal of part of this to create the driveway into the appeal site. Therefore, the proposed development would result in a notable reduction in the site's verdant character.
17. This is a concern given the general prominence of the appeal site. In addition to views from neighbouring properties, the development would be readily perceptible from several different vantage points in the surrounding area. The latter point would be exacerbated by reason of the creation of the vehicular access point, which would allow for greater views into the appeal site. Therefore, the incongruous form of development would be strident. This would occur even though some design cues have been taken from neighbouring dwellings.
18. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policies 7S; 28S; 29; and 30 of the Local Plan. Amongst other matters, these seek to ensure that developments recognise the intrinsic character and beauty of the countryside; be of a high quality design; contribute positively to the area's character; and take into account the relationship with its context.

Living conditions

19. The appeal site consists of an area near to the existing dwelling of 18 Tithe Road and its rear garden. The side elevation of No. 18 features a conservatory. The existing dwelling also features a front garden.
20. The proposed development would have a significant height and would be in close proximity to the shared boundary. On account of this relationship, combined with the fact that the proposed dwelling would be comparable in proportion to the existing garden's depth, the proposed development would have a significant enclosing effect upon the existing rear garden. Owing to the lack of outlook that residents of the garden would have, the proposed development would result in an erosion of the living conditions of the occupiers of the neighbouring property.
21. It has been suggested that, under Permitted Development Rights a fence could be installed at the property. I have no reason to believe that this would not

take place. The proposed development would have a greater height than the fence. Therefore, the dwelling should have a greater adverse effect. In consequence, the presence of this 'fall-back' position would not overcome my previous concerns.

22. Furthermore, the proposed development would be sited near to the existing conservatory. By reason of the height of the proposed dwelling and its close relationship with the conservatory, residents of the existing dwelling would experience a diminished level of outlook. This reduces the ability of existing occupiers to make full use of the dwelling even though gardens are present to the front and rear of the neighbouring property.
23. In addition, the proposed development features an upstairs window that would enable views from the dwelling towards the neighbouring garden. By reason of the height of this window and the field of vision, the development would lead to a significant loss of privacy for the occupiers of the neighbouring property. In addition, views would also be possible over the existing dwelling's front garden.
24. Although such views might be at an oblique angle, views would be over extensive parts of the existing dwelling's gardens. This would result in a loss of privacy for the occupiers of the existing dwelling. This would result in a diminished ability for the occupiers of the existing dwelling to undertake private recreation.
25. I acknowledge that the appellant has amended the design of the proposed dwelling. However, harm would still exist. Therefore, this does not allow me to disregard my previous findings.
26. I therefore conclude that the proposed development would have an adverse effect on the living conditions of occupiers of neighbouring properties. The development, in this regard, would conflict with the requirements of Local Plan Policy 32 and the Design Guidance, 'Residential Extensions, New Dwellings, and Small Infill Developments (2000). Amongst other matters, these seek to ensure that new developments give consideration to factors that cause disturbance to neighbours, including overlooking; and maintain privacy.

Biodiversity

27. The appeal site consists of an undeveloped site. The surrounding, wider area is predominantly rural in nature. This means that there is a likelihood that the surrounding areas would be a habitat for wildlife. It therefore follows that the appeal site would be used for foraging.
28. This is a concern as the appeal documentation before me does not include such any survey into the presence of wildlife, such as bats and birds, which might utilise the site for foraging. In consequence, it is not possible to conclude that such species are not present at the appeal site. This is the case even though it appears unlikely that Great Crested Newts are present on the site.
29. By reason of the increased level of built form, the proposed development would result in a diminished ability for wildlife to forage for food. This is, in part, due to the reduction in the overall level of planting at the site.
30. This is a concern as, if notable species are present at the appeal site, it cannot be concluded that the proposed development would not harm the foraging and feeding of wildlife.

31. I have given consideration as to whether it would be possible to impose a condition that might secure mitigation. However, without certainty as to whether such species are present in the vicinity of the appeal site and, if so, their extent it is not possible to draft a condition with sufficient precision as the amount of mitigation that would be required cannot be established.
32. Furthermore, the appeal documentation does not demonstrate how an increase in the overall level of biodiversity would be delivered. This represents a breach of policy, from which harm would emanate given the overall increase in built form at the appeal site.
33. My attention has been drawn to a previous appeal decision, which did not result in any adverse effect upon ecology. However, owing to the passage of time there could be a change in the presence of such species. Therefore, the absence of such surveys in the previous appeal does not overcome my previous concerns.
34. My attention has been drawn to the granting of planning permission elsewhere. I have not been provided with the full information regarding the planning circumstances of this, which means that I can only give it a limited amount of weight. Nonetheless, the appeal site is located in a different location. Therefore, the level of biodiversity is likely to be different. In consequence, this does not overcome the preceding findings.
35. I therefore conclude that the proposed development would have an adverse effect on biodiversity. The development, in this regard, would conflict with the requirements of Policies 42S and 43 of the Local Plan. Amongst other matters, these seek to ensure that developments should not adversely affect protected species; and provide a net gain in biodiversity.

Flood risk

36. The appeal site is located in Flood Zone 1. This is the land that is at the lowest risk of flooding. In order to access the site, the proposed development would be required to cross a ditch.
37. Although the ditch is required for drainage purposes, the information before me indicates that the proposed development could be constructed with appropriately sized pipe work. This would ensure that the proposed development would not impede the flow of water in the ditch.
38. In reaching this view, I note that a similar arrangement has been constructed at the access point to the driveway that serves the existing dwellings at 18 and 20 Tithe Road. This demonstrates that it is possible to construct such designs in the locality.
39. A condition could be imposed with sufficient precision to ensure that the development is carried out in such a way to ensure that this occurs. The condition would also enable the Council to approve such details and to ensure that these points are implemented at an appropriate stage of the development process.
40. I therefore conclude that the proposed development would not have an adverse effect on flood risk. The development, in this regard, would comply with the requirements of Policies 92 and 93 of the Local Plan. Amongst other matters,

these seek to ensure that developments can provide infrastructure capacity; and provide adequate maintenance and management for drainage systems.

Other Matters

41. The proposed dwelling would feature appropriate internal space. However, this is only one of all the matters that must be considered. It therefore does not overcome my findings in respect of the main issues.
42. Concerns regarding the manner in which the Council considered the planning application fall outside of the scope of this decision.

Conclusion

43. Although the proposed development is unlikely to have an adverse effect on flood risk, this is outweighed by the unsuitability of the appeal site's location, the effect on character and appearance of the surrounding area, the effect on the living conditions of the occupiers of the neighbouring property and biodiversity. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR