



Appeal Decision

Site visit made on 25 July 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/K0235/W/23/3314553

22 Kimbolton Avenue, Bedford MK40 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by T4S Investments Limited against the decision of Bedford Borough Council.
 - The application Ref 22/02132/REM, dated 23 September 2022, sought approval of details pursuant to condition No.1 of planning permission Ref 19/02501/OUT, granted on 27 May 2020.
 - The application was refused by notice dated 22 December 2022.
 - The development proposed is outline application with all matters reserved for the erection of a detached dwelling.
 - The details for which approval is sought are: reserved matters of access, appearance, landscaping, layout, scale.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the living conditions of prospective occupants with respect to outlook, light and other effects of nearby trees; and
- The effect of the proposal on trees.

Reasons

Character and appearance

3. The appeal site forms part of the rear garden associated with 22 Kimbolton Avenue (No.22), located at its junction with Amberley Gardens. Within the area the surrounding residential properties are of mixed style and character. Between the appeal site and Amberley Gardens is a relatively wide landscaped strip containing several mature trees and shrubs which contribute positively to the character and appearance of the area. Despite the existing tall, solid boundary fencing on the appeal site and presence of the trees, some views across the site are gained towards the rear of the more traditional properties on Kimbolton Avenue, although the site more closely visually relates to the estate housing on Amberley Gardens.

4. I noted a diverse range of plot sizes in the immediate area, and along Amberley Gardens and Windsor Gardens a few plots are much smaller than average. The siting of the dwellings nearby is also varied, although, a characteristic feature is the generally open, attractive landscaped road frontages to most dwellings.
5. The proposed single storey dwelling would be sited close to the western boundary with a small area of garden to the north and east, and parking between the new dwelling and the retained rear garden associated with No.22. It would be constructed of facing brick and clay tiles, have a simple rectangular form with a pitched roof, and have minimal design details.
6. In terms of the footprint and siting of the proposed dwelling, I recognise that it would be large in relation to the plot size, but this would not be significantly different to some of the properties that I saw on my visit, especially along Amberley Gardens. Furthermore, being set back behind the wide landscaped frontage of the verge would create a greater of feeling of space around the dwelling. It would also have a regularly shaped and adequately sized garden. Therefore, in common with the Council's findings regarding the earlier Reserved Matters Application, where the dwelling had a similar footprint, the size of the garden area would not be out of keeping with the other shallower gardens on Amberley Gardens and that the set back from the street scene would be broadly in keeping with other dwellings in the vicinity. I recognise that the proposed dwelling would have amenity space less than the length advised in the Council's Design Code N3 (Residential Extensions, New Dwellings and Small Infill Developments 2000), but this refers to new development areas where amenity standards are being created rather than existing residential areas. I therefore consider that the proposed footprint and siting would preserve the existing pattern of development and spaces around them, and the appeal proposal would not appear cramped within its plot or contrived.
7. The proposed dwelling would be of a simplistic design with no articulation to its form and little design interest. This would contrast with other buildings in the immediate area, including those on Windsor Gardens and Amberley Gardens, which exhibit details including front gables, porches, chimneys and some decorative brickwork. The appeal proposal would incorporate fewer design details than the previous Reserved Matters Application proposal, it would be largely featureless and would not reflect any of the characteristic detailing of nearby dwellings. Although the building would be relatively low in height and views of it would be partly masked by the boundary fencing and filtered by the trees on the verge, the front elevation would be visible at the site entrance and where the boundary fence would be lower. It would not represent a high-quality design or be visually attractive.
8. The solid fencing and the parking area would provide little opportunity for soft landscaping or to create an attractive setting to the building. This would contrast with the nearby properties with typically low front boundary treatments and landscaped areas which positively contribute to the character and distinctiveness of the area.
9. The appeal proposal would therefore have a harmful effect on the character and appearance of the area and would be contrary to Policies 28S, 29 and 30 of the Bedford Borough Local Plan 2030 (2020) (BBLP) and the Council's design

guidance. It would also fail to meet the high-quality design expectations of the National Planning Policy Framework (the Framework).

Living conditions

10. The appeal scheme would provide a 2 bed bungalow sited close to the boundary with 20 Kimbolton Avenue. The single window to Bedroom 2 would be approximately 1m from the existing, solid, high fence. Whilst this siting might technically accord with Design Code N3 relating to the siting of dwellings in relation to side boundaries, in my view this guidance relates to the space around buildings and the character of the streetscene rather than living conditions. No examples of similar window/fence relationships in new dwellings are before me. Consequently, this close and restricted outlook with limited levels of natural light in relation to Bedroom 2 would result in a poor living environment for future occupants. Although a bedroom, it cannot be assumed that the room would not be occupied during the day, and it is reasonable to expect that an adequate outlook and levels of daylight should be provided in all habitable rooms.
11. The presence of the large trees on the road verge would to some extent cast shade on the elevation of the proposed dwelling facing Amberley Gardens, including those windows serving the private lounge and master bedroom. I viewed the location of the trees, the extent and density of their canopies, and the proposed location of the dwelling. The canopies appeared to be largely clear of the proposed dwelling and at the time of my mid-morning visit when the trees were in full leaf, I did not find the shading to be unpleasant or create an oppressive environment within the site. Whilst the levels of shading would change throughout the day, I have no adequate evidence before me to demonstrate that the habitable rooms would be dark and oppressive or that this would be to an unacceptable level. The private lounge also would have two additional windows to the gable end which would be less shaded, and the windows to the master bedroom would be located further away from the tree canopies.
12. With the canopies of the trees mainly lying directly over the road verge and away from the proposed dwelling, there is no adequate evidence before me to explain why these trees would cause an unacceptable amount of leaf litter, or that there would be a perceived anxiety regarding potential damage to the property which might result in a pressure to prune or remove the trees. Furthermore, when the Council granted outline planning permission, the presence of nearby trees would have been noted and many of the issues considered above would be most likely experienced regardless of the siting of the dwelling on the plot.
13. Although I have found that the proposed scheme would have no harmful effect on the living conditions of future occupants because of nearby trees, I have found that the outlook and levels of light in relation to Bedroom 2 would be unacceptable. Therefore, there would be conflict with BBLP Policies 30 and 32 and the design guidance, and the Framework, which seek to achieve a good standard of amenity for future occupants.

Trees

14. The plan accompanying the Arboricultural Impact Assessment and Method Statement submitted with the appeal proposal was prepared to support the

previous refused scheme. Whilst this plan does not exactly match the siting of the proposed dwelling, it is noted that both dwellings, whilst of different scale and design, would be in a very similar position on the site. Therefore, I have no adequate evidence before me to indicate why the plan submitted would be unsuitable or why the arboricultural impacts of the proposal would not have been appropriately assessed. I therefore find that the proposal would not have a harmful effect on nearby trees. As such there would be no conflict with BBLP Policy 39 which seeks to protect existing trees nor the Framework which recognises the important contribution that trees make to the character of an area.

Other Matters

15. The appellant has expressed concerns regarding the conduct of the Council during the processing of the application. Whilst this must have caused the appellant some distress, this does not materially affect my consideration of the planning merits of the appeal proposal.

Conclusion

16. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that the appeal is dismissed.

G. Bayliss

INSPECTOR