



Appeal Decision

Site visit made on 26 January 2024

an Inspector appointed by the Secretary of State

Decision date: 02.02.2024

Appeal Ref: APP/Y0435/W/23/3326724

11, Baldwin Crescent, Newport Pagnell, Milton Keynes MK16 0BS

- 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 Sibanda against the decision of Milton Keynes City Council.
 - The application Ref 22/00462/FUL, dated 22 February 2022, was refused by notice dated 29 June 2023.
 - The development proposed is a 3-bedroom detached residence.
-

Decision

1. The appeal is allowed, and planning permission is granted for a 3-bedroom detached residence at 11, Baldwin Crescent, Newport Pagnell, Milton Keynes, MK16 0BS, in accordance with the terms of the application Ref 22/00462/FUL, dated 22 February 2022, subject to the conditions in the attached schedule.

Procedural Matters

3. The National Planning Policy Framework 2023 (the Framework) was amended on 19 December 2023. The amendments made did not have a material bearing upon the main issue in this appeal, and it was therefore not necessary to seek comments from the main parties upon it. Where I have referred to the Framework, it is that of the December 2023 version.

Background to the appeal

4. The appeal relates to a residential site within the side garden of No. 11 Baldwin Crescent, a two storey property contained within an 'L' shaped block of dwellings. The proposed development is for a 3-bedroom, detached dwelling.
5. A similar proposal, in fact one which the local planning authority (LPA) considers having been identical, was allowed on appeal on 21 May 2019,¹ but which has now lapsed. I afford the appeal decision very significant weight in the decision-making process.
6. Since the previous appeal decision, the Newport Pagnell Neighbourhood Plan (2021) (NP) has been made.

Main Issues

7. The main issues are (i) the impact of the development upon the character and appearance of the area; (ii) parking provision and the impact upon the highway network; (iii) the provision of electric charging points within the site, and iv)

the impact upon the outside amenity space of the occupants of No. 11 Baldwin Crescent.

Reasons

Character and appearance

8. The proposed development would represent an infilling of development between no's 9 and 11 Baldwin Crescent, located on the side garden of the latter property.
9. Policy NP4 of the NP states that "*small, well designed residential developments on brownfield sites within the settlement boundary which do not have a detrimental effect on the surrounding area will be supported. The impact of development will be determined based on enhancing the character and appearance of the locality and protecting the amenity of surrounding properties. Proposals to subdivide residential plots to develop new homes on rear or side garden land will not be supported*".
10. While the proposed development might be considered to be contrary to the last sentence of the policy, it is necessary to assess the proposed development against the policy when read as a whole. The same issue arose with regard to a separate appeal on another site and to which the LPA has referred in its officer report².
11. The terraced houses to either side of the appeal site, and within the area generally, are characterised by their two storey, brick and rendered construction and double pitched pantile roofs. The terrace containing No 9 Baldwin Crescent includes two-storey pitched gables at either end. Dwellings to either side have small front amenity spaces with boundary fencing, beyond which is grassed open space and hardstanding for communal parking.
12. The proposed detached dwelling would be two-storey with a double pitch roof reflecting the adjacent properties. It would follow the front building line of No 9 Baldwin Crescent and would align with the side corner to No.11 Baldwin Crescent.
13. For the above reasons, I conclude that the proposed development, subject to conditions, would assimilate well into the area and with its character and appearance, and would thus accord with the general tenet of NP policy NP4 which is to protect and enhance the character and appearance of the area.

Parking provision

14. The proposed development contains no off-street parking provision within the site boundary and the LPA objects to it upon this basis. The Milton Keynes Local Plan:MK 2019 (LP) policy CT10 requires all new development to meet its full parking standard '*unless mitigated circumstances dictate otherwise*'. Its Parking Standards Supplementary Planning Document 2023 (SPD) recommends that a 3-bed dwelling should have two independently accessible parking spaces.
15. While there would be no off street parking within the appeal site and little possibility of gaining vehicular access to it because of the layout of the area,

² APP/Y0435/W/22/3291214

there is communal parking which can accommodate 16 vehicles and where space is not allocated to specific individuals or households. The officer report to the Council's Planning Committee notes that *'most of the houses within the vicinity have parking available on driveways and there are only 6 houses on Baldwin Crescent that have no allocated parking (Nos. 1, 3, 5, 7, 9 and 11). The proposal would add a further house without dedicated parking, giving 7 properties in total requiring 14 spaces. There are 16 spaces available to the front of the Baldwin Crescent. As a consequence, it would be very difficult to substantiate any harm to highway safety and in turn sustain the objection from the LHA'*. (ie the initials refer to the highways authority).

16. The Inspector, when determining the earlier appeal for a dwelling on the site, concluded that *'there would likely be a reliance upon the existing parking area by occupiers of the proposal, however, there are opportunities for on-street parking within a reasonably short walking distance of the appeal site. Furthermore, the Council recognises that the appeal site is well served by local amenities, transport links and services such that this would reduce the need for private vehicle ownership. Accordingly, whilst there would be some inconvenience for displaced users of the car park this would be minimal such that I do not consider that the living conditions of existing residents would be unduly compromised.*

Overall, whilst I consider the proposal would fail to accord with the parking standards requirement of LP Policy CT10, in this particular case, because of the specific characteristics of the site there would be very little harm arising from the shortfall in parking and the proposal would not undermine the purpose of this policy.'

17. The appellant has submitted a parking survey which, while only providing a snapshot in time, considers that the proposed development would not lead to an unacceptable overloading of the highway network. This is countered by two morning surveys at 7:45am and an evening survey at 10:20pm by the Highway Authority which also only provides a snapshot in time. These surveys found that during the morning visits there were 12-13 spaces in use, while the evening survey found 100% occupancy. The highways surveyor considers that 2 spaces should be reserved for drivers with disabilities, but I noted on my site visit that there is no such reservation currently applicable.
18. The Highway Authority survey did not take into account the availability or otherwise of on-street car parking (i.e., away from the communal car parking area) in the vicinity of the appeal site.
19. On my site visit, while again only providing a snapshot in time, and when I also considered the availability of on-street parking, I did not find there was undue parking stress in the area or upon the road network. Nor did I consider that the addition of one dwelling would lead to unacceptable parking or highway consequences and in this I agree with the view of the LPA as stated in its officer report.
20. For the above reasons, my conclusion concerning this matter accords with that of the previous Inspector with regard to LP policy CT10.

Provision of electricity charging points

21. LP policy CT6 states that all new development will be required to provide electric charging points (EVCPs) in line with standards set out in the SPD. The latter document states that there should be 1 EVCP per dwelling.
22. However, the SPD also states that while all development should meet the parking standards, *'proposals will be considered on their merits having regard to local circumstances and the needs of specific development. Policy CT10 does allow, where mitigating circumstances indicate otherwise, for lower than standard parking provision'*. The SPD includes the provision of EVCPs as part of parking provision.
23. It is also a long-held principle that a planning authority should not duplicate the function of other regulatory bodies or controls (though overlaps can arise). Paragraph 194 of the Framework states that *'the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively'*.
24. On the one hand there is a planning policy, supplemented by the SPD, which requires new dwellings to include an EVCP, but which concedes that there may be exceptions and that each case can be dealt with upon its merits. On the other hand, there are specific requirements under part S of the Building Regulations (BR). It is not my function to pronounce upon the interpretation of the BR, though after considering the principle that a planning authority should not duplicate the function of other regulatory bodies or controls, I give very substantial weight to the regulatory role of the BR in this matter.
25. However, even if policy CT6 were to take precedence over the BR, the policy does allow the circumstances of each case to be taken into account. In this instance, I consider that, because of the adjoining land uses and footpaths, no parking could be made easily within the appeal site, and I have no information before me to indicate that it could be provided on land within the ownership or control of the appellant. For the reasons outlined earlier in this decision, I do not find that it is necessary for an additional car parking space to be provided in respect of the appeal development. In this context, I do not find that it is necessary for the appellant to provide an EVCP in respect of LP policy CT6 or the SPD.
26. Therefore, I conclude that, in this instance, and for the reasons stated, there is no conflict with the provisions of LP policy CT6 and the SPD in so far as a reasonable exception to the provision of an EVCP is permitted.

Amenity space

27. LP policy D5 requires that new development is be required to create and protect a good standard of amenity for buildings and surrounding areas. In its refusal notice, the LPA considers that the subdivision of the site would lead to an adverse loss of amenity space enjoyed by the occupants of No. 11 Baldwin Crescent. However, I have no evidence before me regarding any policy which specifies a minimum amount of private amenity space.

28. However, the officer report to Committee considers that *'while the garden of No.11 would be reduced, the property would retain a wide garden to the rear of almost 20m with a further triangular private space set east of the house. This is considered adequate for occupants'*. Following my site visit, and when compared to other private amenity spaces in the immediate area, I agree with its assessment.
29. Therefore, I conclude that the proposed development would accord with LP policy D5 as described above.

Conditions

30. The LPA has suggested a number of conditions in the event that planning permission were to be approved. Where necessary, I have amended some of them in the interests of certainty and precision. The appellant has given her consent to the imposition of conditions that I consider are necessary.
31. I have imposed the standard time condition and a condition to ensure that the development is in accordance with the approved plans in the interests of certainty.
32. I have imposed a condition relating to the use of external materials for the building, in the interests of the character and appearance of the area.
33. I have imposed a condition relating to bin and cycle storage, on the one hand to ensure that the development supports sustainable transport, and on the other, so that the development does not detract from the character and appearance of the area.
34. I have included a condition relating to landscaping, boundary treatment and biodiversity enhancement in the interests of protecting the character and appearance of the area and to ensure a net gain to biodiversity.
35. It is necessary to impose a surface water condition to ensure that the development can be adequately drained and that there is no increased flood risk, on or off site, resulting from the proposed development. I have also imposed a condition to ensure that the development makes the efficient use of resources.
36. I have imposed a condition that first floor windows on the north and south elevations shall have obscure glass in order to protect the living conditions of the occupiers of adjoining properties.
37. In view of my conclusion relating to the EVCP main issue, I have not imposed a condition relating to it.

Conclusion

38. I have concluded that the proposed development would not have an adverse impact upon the character and appearance of the area, subject to conditions, and that parking provision in the area is sufficient to ensure that there would be no significant strain on the highway network. I have found that policy allows an exception in this instance to the provision of an EVCP. I am satisfied that the development would leave adequate private open space for the occupiers of the adjoining property.

39. For the reasons outlined above, I conclude that the appeal should be allowed.

S Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following plans/drawings.
180108/PL01A - PLANS & ELEVATIONS.
3. No development shall take place above slab level until a schedule of the external materials to be used in the construction of the development has been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in full accordance with the approved details prior to the first occupation of the development.
4. Notwithstanding the submitted details, the dwelling hereby approved shall not be occupied until a landscaping, boundary treatment and biodiversity enhancement plans have been submitted to and approved in writing by the local planning authority. All of the approved details shall be completed no later than the end of the first planting season thereafter.
5. Prior to any above ground works a surface water drainage scheme for the site, based on sustainable drainage principles, shall be submitted to and approved in writing by the local planning authority. The scheme shall be based upon the details within the submitted document WATER DRAINAGE SCHEME, Reference: 0345 – DD- 001 (Rev.1) RIDA or the submitted document Update to Written Representations Statement: APP/Y0435/W/23/3326724 Milton Keynes Council Option 2 for [0345] 11 Baldwin Crescent, Newport Pagnell, MK16 0BS, including drawing 003 Rev. P3, drawing 006 Rev. P1 and associated drainage calculations 11 Baldwin OpB.pfd Network: Storm Network. The scheme shall subsequently be implemented in full accordance with the approved details prior to occupation of the dwelling.
6. Notwithstanding the submitted details, prior to above ground works, a sustainability statement shall be submitted for approval by the local planning authority demonstrating how the development accords with the requirements of Parts D, F, G, L and M of Plan:MK Policy SC1. The scheme shall subsequently be implemented in full accordance with the approved details prior to occupation of the dwelling.
7. Notwithstanding the submitted details, prior to first occupation of the dwellinghouse hereby approved, provision shall be made on site for the storage of 4 refuse/recycle bins at the rear of the property and provision for the storage of 2 cycles. The storage facilities shall thereafter be retained.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), the proposed 1st floor side windows to the north and south elevations serving a bathroom and stairwell shall be obscurely glazed to a minimum level 3 within the Pilkington range of Textured Glass or equivalent and be non-opening below 1.7 metres from finished floor level. The windows shall thereafter be maintained in this condition at all times.