



Appeal Decision

Site visit made on 23 January 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/K0235/W/23/3322102

213 Goldington Road, Bedford MK41 9PH

- 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 and Mrs Damiano against the decision of Bedford Borough Council.
 - The application Ref 22/02715/FUL, dated 15 December 2022, was refused by notice dated 23 February 2023.
 - The development proposed is described as installation of LPG tank and associated pump and dispenser.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the Council has used a different description in their Decision Notice as follows: Change of use from residential garden land to a mixed residential garden land and the commercial sale of LPG, including the installation of one LPG tank and associated pump and meter. I have considered the appeal on this basis and not as described on the application form and banner heading.
3. The appeal site was the subject of two previous enforcement appeal decisions¹, which were both dismissed and planning permission refused. The primary difference between the proposal and the previous appeals is the reduction in the scale of the intended use, with now only one LPG tank proposed. It is clear that the Council has determined the application on this basis and so shall I for the purpose of this appeal.
4. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

5. The main issue are:
 - i) the effect of the proposal upon the living conditions of existing residents, with particular regard to noise and disturbance;

¹ APP/K0235/C/14/2221831 and APP/K0235/C/14/2221856 Appeal dismissed and planning permission refused 23 December 2014

- ii) the effect of the proposed development on highway safety, with particular regard to manoeuvring vehicles and traffic generated.

Reasons

Living conditions – existing

6. The appeal site consists of a two-storey semi-detached dwelling, with attached garage, positioned within a sizeable irregular shaped plot. The appeal site is located within a predominantly residential area on the south side of Goldington Road. The appeal site has an open frontage with a gravelled surface to the front of the property. A pair of gates are located to the side of the dwelling leading to an area of hardstanding and a lawned garden. The proposed LPG tank, pump and dispenser would be positioned to the south-west corner of the appeal site close to the gardens and shared boundaries of adjacent residential properties. The neighbouring property at No 211 Goldington Road has habitable room windows to the front and rear elevations at both ground and first floor level. A sizeable ground floor window is positioned close to the shared boundary and faces the driveway of the appeal site.
7. The proposal would introduce vehicular movements associated with the delivery of LPG and the re-fuelling of vehicles, along with the associated noise of vehicle engines, vehicles turning and doors opening and closing, in close proximity to the gardens of neighbouring dwellings. The level of activity, albeit intended by the appellant to be relatively low key, would nevertheless be greater than that normally associated with the domestic use of a dwelling.
8. The appeal site fronts the busy highway and several buildings associated with the University of Bedfordshire are on the opposite side of the road. However, the rear of the appeal site has a noticeably and distinctly different noise environment to that at the front. With the quieter nature of the surroundings at the rear the additional movements, close to the rear garden of neighbouring properties, would noticeably increase the noise environment and would result in disturbance to the existing residents. The intensification of the use of the appeal site for commercial use would consequently be detrimental to the living conditions of existing occupiers by way of general noise and disturbance.
9. The Framework states that to prevent unacceptable risk from pollution, planning decisions should ensure that new development is appropriate for its location. In the absence of an analysis of noise, and any required mitigation, I cannot be satisfied that the living conditions of existing occupiers of nearby dwellings, and their respective gardens, would not be adversely affected by noise.
10. The appellant would be agreeable to a condition to allow an assessment of noise to be undertaken with the tank *in situ*. However, I share the Council's concern with this approach in that there is no certainty that an acceptable noise environment can be achieved, and or, what mitigation may be required. Furthermore, such a condition risks preventing implementation of the use, thus nullifying the permission. Accordingly, such a condition would not be reasonable and therefore would not meet the Framework tests and guidance in the Planning Practice Guidance (PPG). Although the hours of operation could be controlled by condition, I have concern regarding the enforceability of conditions limiting the number of deliveries and customers by appointment only and that this would conflict with the tests for conditions, as set out in the PPG.

11. For the reasons stated, I conclude that the development would harm the living conditions of existing occupiers, by reason of noise and disturbance. I therefore find conflict with Policies 28S(ii), 29 (ii), 30 (i) and 32 (i) (ii) and (iii) of the Bedford Borough Local Plan 2030 (Local Plan). Collectively, these policies seek to respect the context within which proposals will be within and have a positive relationship with the surrounding area, integrating well with and complementing the character of the area in which the development is located. They also seek to ensure that developments minimise and take account of the effects of pollution and disturbance, including factors which might give rise to disturbance to neighbours and the surrounding community. It is also contrary to the Framework, which requires development to create a high standard of amenity for existing users.

Highway safety

12. The appeal site is located close to the traffic signalled junction of Goldington Road with Polhill Avenue and the A5140. Immediately outside the appeal site the road is of multiple lanes in width. Whilst I appreciate it is only a snapshot of time, at the time of my visit, I observed the road to be busy.
13. The appellant submitted swept path tracking, intended to show that a delivery tanker could enter and leave the site in a forward gear. However, I am not satisfied that such a manoeuvre would be possible within the confines of the appeal site as the tracking has failed to take into account parking arrangements for the existing dwelling. It is therefore likely that the tanker would have to reverse into, or out of, the site onto a busy main road.
14. Furthermore, the proposal would result in an increase in vehicular movements at the site, including large commercial vehicles. In particular right-turning movements across the multiple lanes of traffic, close to the signalised junction, would be likely to cause danger and inconvenience to road users.
15. For the reasons stated, I therefore cannot be satisfied that the proposal would not have a harmful effect on highway safety, with particular regard to manoeuvring vehicles and traffic generated. I therefore find conflict with Policy 31 (i) of the Local Plan which resists development that would have an unacceptable impact on highway safety. I find conflict with Policy 31 (i), (iii) and (iv) of the Local Plan which requires that access arrangements are suitable for service vehicles and would not have any significant adverse impact on access to the public highway. The proposal would also conflict with the Framework which requires the provision of a safe and suitable access for all.

Other Matters

16. The appellant asserts that there is a lack of LPG re-fuelling facilities, and that the proposal would supply the surrounding areas, delivering sustainable benefits. Whilst I have little evidence to substantiate this, I have no reason to disagree. The development would give rise to some economic benefits during the construction phase and during operation. I consider that these benefits attract limited weight and that individually, and collectively, these matters do not outweigh the harms identified against the main issues.
17. Reference has been made to a lawful development certificate for the erection of a swimming pool, ancillary plant room, changing room and garden store and previously refused annex accommodation within the appeal site. However, I

have no further details before me. Nevertheless, based on the limited information before me, I do not consider the description of either of the proposals to be comparable to the appeal scheme before me. In any event, I have determined the appeal on its own merits.

Conclusion

18. In the absence of further evidence, I cannot be satisfied that the proposal would not harm the living conditions for existing occupiers with regards to noise and disturbance. Nor am I satisfied that the proposal would provide a safe and suitable access. It would be contrary to the development plan in these respects. There are no other considerations, including the Framework, that outweigh this conflict.
19. For the reasons given above, I conclude that the appeal should be dismissed.

R. Gee

INSPECTOR