



Appeal Decision

Site visit made on 10 January 2024

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/K0425/W/23/3321107

Station Court, Station Road, Bourne End SL8 5YP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Metrix Developments Limited against the decision of Buckinghamshire Council.
 - The application Ref is 22/05859/FUL.
 - The development proposed is erection of three storey side extension to create 3 x 2-bed self-contained flats with associated car and cycle parking, bin storage and landscaping works with alterations and insertion of additional windows to existing building and addition of balconies to elevation B.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development set out in the application form differs to that contained within the appeal form and Decision Notice. There is no evidence that this change was formally agreed. However, the latter description more accurately reflects the scope of the proposed plans, which were consulted on and determined by the Council, and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I have used the later description in the banner heading above.
3. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further submissions.
4. I saw on site that an area of trees and planting shown on the existing site plan has been removed and replaced with some new trees and planting. Also, some additional parking spaces have been marked out using block paving. It has been brought to my attention by the appellant that there is a discrepancy between what has been built on site to date and that shown on the submitted plans. To accord with the submitted plans the new area of trees and planting would need to extend 6 metres from the shared boundary with the properties on Southbourne Drive. However, the depth of the current area of trees and planting appeared to fall short of this. For the avoidance of doubt, I have assessed the proposal as shown on the submitted plans and have determined the appeal on this basis.
5. During the appeal process, to address concerns raised regarding privacy, the appellant submitted revised plans. These included a revised site plan that

introduced 4 metre high planted screens along the shared boundary with the properties on Southbourne Drive, and revised plans and elevations showing two different options for incorporating angled windows into the proposed extension. Accepting amendments, such as these, at appeal stage could deprive parties of the opportunity to comment on the changes. Thus, taking the amended plans into account could prejudice other parties' interests. The Planning Inspectorate's Procedural Guide (Planning Appeals – England, updated January 2024) sets out that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. In this case, comments from interested parties indicate that loss of privacy is a matter of concern. Consequently, I have determined the appeal on the basis of the proposal determined by the Council and have not taken into account the revised plans.

6. Furthermore, even if one of the approaches set out in the revised plans was acceptable with regards to privacy and could be secured by condition, there is no certainty that it would be acceptable with regards to other aspects of the proposal.

Background and Main Issues

7. The Council's second reason for refusal relates to the effect of the proposal on the living conditions of the occupants of Nos 25 and 27 Southbourne Drive, with particular regard to outlook. However, there appears to be some inconsistency with the assessment in the Council's Officer Report, which refers to the development as being significantly detrimental to the outlook from the closest dwellings in Southbourne Drive. From the information before me and my observations on-site, the closest dwellings in Southbourne Drive would be Nos. 23 and 25 Southbourne Drive. While the appellant in their statement refers to Nos 25 and 27 Southbourne Drive in this regard, the supporting diagram shows separation distances relating to Nos 23 and 25 Southbourne Drive. I have therefore assessed the effect of the proposal in terms of outlook on all three of these dwellings.
8. Interested parties have also raised concerns regarding a loss of privacy to these properties. The Council recognises that the proposed flats would have first floor windows that would directly face the back of these properties and their rear gardens and that this may result in a loss of privacy to these occupants. However, it considers that, given there are first floor windows in the existing adjacent residential development, the proposal would not result in any further harm to the living conditions of these occupants.
9. Following my site visit it was apparent that the proposal would directly overlook the rear elevations and gardens of Nos 23 and 25 Southbourne Drive. Therefore, in the interests of the living conditions of these occupants, I have considered loss of privacy as a main issue of the appeal. The main parties were given an opportunity to make representations on the effect of the proposal on the privacy of these occupants and have therefore not been prejudiced by me considering the appeal on this basis.
10. In this context, the main issues in this appeal are the effect of the proposal on:
 - flood risk and whether it would provide an effective surface water drainage scheme;

- the living conditions of the occupants of Nos 23 and 25 Southbourne Drive, with particular regard to privacy;
- the living conditions of the occupants of Nos 23, 25 and 27 Southbourne Drive, with particular regard to outlook;
- the living conditions of existing and future occupants, with particular regard to car parking provision; and
- the character and appearance of the area.

Reasons

Flood Risk and Surface Water Drainage

11. The appeal site is not located within flood zones 2 or 3. Although the Council refer to known surface water flooding in the surrounding area as being significant, the Local Lead Flood Authority (LLFA) have confirmed that the Risk of Flooding from Surface Water map provided by the Environment Agency shows that the site lies in an area of low risk of surface water flooding.
12. However, despite there being no history of groundwater flooding on the appeal site, there is a high level of ground water in the area, which exacerbated surface water and fluvial flooding in the village in 2014. The LLFA consider this to pose a high groundwater flood risk in this area, which is disputed by the appellant. Nonetheless, based on the information before me, the extent of flood risk from groundwater for the appeal site is unclear and neither party has specifically stated that the appeal should be subject to the Sequential Test.
13. Notwithstanding this, and whether or not a sequential, risk-based approach or test should have been applied to the proposal in some form, the drainage information¹ submitted to support the proposal does not appear to have taken into account the high level of groundwater. No ground investigations have been undertaken to demonstrate whether an infiltration-based system would be possible. Thus, it is unclear whether the proposed sustainable drainage system, based on permeable paving and geo-cellular storage units, would be appropriate.
14. The appellant has suggested that the high level of groundwater could be addressed by a sealed system, that is a sealed storage area for surface water drainage with controlled discharge rates. However, I have no further details of such a system before me. Given this, I cannot be certain that the minimum standards of operation for the system are appropriate. In addition, there is no information regarding the maintenance and management arrangements for such a system.
15. The appellant considers that, in the event the appeal was allowed, a suitable drainage strategy could be secured by condition. Nonetheless, from the evidence before me it is unclear what type of sustainable drainage system would be appropriate. The Planning Practice Guidance advises limiting the use of conditions requiring the approval of further matters after permission has been granted. Given this, and the possibility that additional groundwater could increase the risk of other types of flooding elsewhere, it would not be

¹ Surface Water Drainage – Sustainable Drainage Systems document prepared by Sanderson Associates dated December 2022

reasonable, in this case, to secure details of the surface water drainage system by condition.

16. Therefore, in the absence of sufficient information to the contrary, it has not been demonstrated that the proposal would not be at risk from flooding and would not increase the risk of flooding elsewhere. Accordingly, the proposal would conflict with Policy DM39 of the Wycombe District Local Plan (2019) (Local Plan), which seeks to ensure that all development will reduce the causes and impacts of flooding both on and off-site. It would also be contrary to the aim of the Framework to seek to ensure that new development would not increase flood risk elsewhere.

Living conditions of the occupants of Nos 23 and 25 Southbourne Drive, with particular regard to privacy

17. The proposed self-contained flats would all include windows directly facing the rear of Nos 23 and 25 Southbourne Drive. These windows would serve the kitchen/living/dining areas of the flats as well as both bedrooms. There would be a separation distance of between 18 to 22 metres between these windows and the rear windows and conservatories serving Nos 23 and 25 Southbourne Drive. Nonetheless, despite the proposal being a reasonable distance from the shared boundary and the houses on Southbourne Drive being positioned at a slight angle to the proposal, a degree of overlooking would occur.
18. The rear gardens of Nos 23 and 25 Southbourne Drive are fairly short, and I understand that some dense planting that previously screened the existing block of flats from the properties on Southbourne Drive, has been removed. As a result, I saw on site that it is possible to see into the front windows of the existing first and second floor flats from the ground and first floor rear windows of both Nos 23 and 25 Southbourne Drive, as well as from parts of their rear gardens. Thus, it is reasonable to assume the reverse would also occur. The recently planted trees do not block these views.
19. Both parties recognise that the proposed extension would result in an increase in overlooking. While it may be that a degree of mutual overlooking is not uncommon within residential areas, views from the proposed extension into the rear windows and rear gardens of Nos 23 and 25 Southbourne Drive would be more direct than the views currently taken from the existing block of flats. This new relationship of overlooking would significantly compromise the privacy of these occupants and would result in significant harm to their living conditions.
20. The appellant contends that the recently planted trees along with additional planting would provide an instant and attractive screen to replace the former dense planting along the boundary. Nonetheless, I do not have the full details of this additional planting before me. While the details could be secured via condition, in this case, without them I cannot be certain that the planting would provide enough screening within a reasonable period of time to fully address the harm I have identified. Furthermore, any planting implemented as part of the proposal could only be reasonably secured for a set period of time, normally five years. After this period, it could be trimmed, replaced or removed. Thus, this type of landscaping should only be used to soften a development or help integrate it into its surroundings and not as a screen to mitigate otherwise unacceptable impacts.

21. I am of the same view as the Council, that overlooking from the proposed side balconies could be addressed by privacy screens.
22. For the reasons above, the proposal would result in significant harm to the living conditions of the occupants of Nos 23 and 25 Southbourne Drive in terms of privacy. Accordingly, it would conflict with Policies CP9 and DM35 of the Local Plan. These seek to ensure that new development achieves a high quality of design and improves the character and quality of an area and the way it functions, by among other things, preventing significant adverse impacts on the amenities of neighbouring land and property.

Living conditions of the occupants of Nos 23, 25 and 27 Southbourne Drive, with particular regard to outlook

23. The existing block of flats is readily visible from the rear of the adjacent properties on Southbourne Drive. However, although taller than these houses, it is set back from the shared boundary and views of it from these properties are partly softened by existing and new planting. This helps to moderate the presence of the building and it does not appear overbearing.
24. The proposed extension would be a similar distance from the shared boundary as the existing block of flats and, although the new planting would not completely screen it, it would help soften its appearance, in a similar way to the existing block of flats. I appreciate that the proposed extension would be different in appearance to the current views from these properties, which include the open space around the railway line and trees on the other side of it. Nonetheless, for the reasons above, the proposed extension would not be overbearing and the overall change in outlook from Nos 23, 25 and 27 Southbourne Drive would not be to a degree that it would result in any appreciable harm to the living conditions of these occupants.
25. Interested parties have also raised concerns regarding overshadowing of the closest dwellings in Southbourne Drive. The Council in their Officer Report acknowledge that, given the proposed extension would be positioned to the south of these dwellings, a degree of sunlight would be lost from their rear gardens. However, due to the separation distance between the buildings of at least 18 metres, it is not considered sufficient to justify refusal of planning permission. From the evidence before me and my observations on site, I am of a similar view. The proposed extension would be set back a reasonable distance from the shared boundary. Thus, the majority of any overshadowing resulting from it would be to the associated parking area.
26. Accordingly, the proposal would not harm the living conditions of the occupants of Nos 23, 25 and 27 Southbourne Drive in terms of their resulting outlook. It would therefore accord with Policies CP9 and DM35 in this regard.

Living conditions of existing and future occupants, with particular regard to parking provision

27. I understand that the Council's car parking standards would require the provision of 1 parking space for each of the proposed flats. The existing site plan shows that there are 9 spaces currently serving the existing flats and dentist. Given this, a total of 12 spaces would be required across the site.
28. The proposal would provide a total of 11 parking spaces, which would result in a shortfall of 1 parking space. There is no suggestion from either party that this

shortfall would compromise highway safety. It may be that this would result in some inconvenience to occupants that would not benefit from an allocated space. Also, the lack of a parking space, particularly if the parking spaces provided are unallocated, could result in some inconsiderate parking outside of the marked bays.

29. However, it is likely that existing and future occupants not benefiting from an allocated parking space would be aware of this before occupying the property. The appeal site is in an accessible location, adjacent to the railway station and close to services and facilities in the village centre, including car parks. While there is no means of preventing other drivers entering the site and using the spaces, the parking area is not readily visible from Station Road so this would be unlikely. There is also no substantive evidence before me to support the suggestion that these occupants would be more likely to work from home. Given this, and the reasons above, while the shortfall of a parking space could result in some nuisance and inconvenience to existing and future occupants, the level of disruption would be limited and would not result in inadequate living conditions for those occupants.
30. Accordingly, the proposal would not harm the living conditions of existing and future occupants in terms of car parking provision. It would therefore accord with Policy CP9 and DM35 of the Local Plan in this regard. These also seek to ensure that new development provides a level of amenity for future occupants appropriate to the proposed use.

Character and Appearance

31. The wider area surrounding the appeal site includes many trees and other planting, which gives it a verdant feel. In comparison the amount of greenery within the appeal site and around the other buildings that sit between the railway line and the houses on Southbourne Drive and Stowe Apartments is more limited. However, the character and appearance of this group of buildings is quite different from their surroundings. The narrow plots contain denser forms of development set out in a linear arrangement, which provides a sense of enclosure. The appeal site is at the closed end of this arrangement and is reasonably well contained by the railway lines.
32. Views from Station Road along the access road serving the appeal site include the tall trees opposite the existing block of flats, as well as trees bounding the railway lines. The proposed extension would be stepped back from the front elevation of the existing block of flats. Thus, it would not interrupt these views and the additional parking spaces proposed would sit behind existing spaces. The proposed extension would also have a similar relationship with, and similar separation distance between it and the proposed parking spaces to the existing block of flats. It would therefore appear as a natural continuation of the existing pattern of development and would be in keeping with the character and appearance of these buildings.
33. The proposal also includes new trees and shrubs in a similar position to the area of trees and shrubs that has been removed from the appeal site. This planting would help soften the parking area and views of the proposed extension from the rear of the adjacent properties on Southbourne Drive.
34. For the reasons above, the proposal would not appear as a cramped form of development and would not harm the character and appearance of the area. It

would therefore accord with Policies CP9 and DM35 of the Local Plan in this regard. These also seek to ensure that new development improves the character of the area and creates positive and attractive buildings and spaces.

Other Matters

35. In terms of benefits, the proposal would provide 3 homes within walking distance of local services and facilities, which would contribute to the Council's housing supply. There would also be the potential to enhance the ecology on the site as part of the replacement planting. These benefits weigh in favour of the proposal. However, given the modest scale of the proposal, and that I do not have full details of the proposed planting before me, I can only afford these benefits limited weight.

Conclusion

36. Overall, I have found that the proposal would not harm the character and appearance of the area, the living conditions of existing and future residents in terms of the proposed car parking provision, or the living conditions of the occupants of Nos 23, 25 and 27 Southbourne Drive in terms of outlook.
37. Nevertheless, this absence of harm neither outweighs nor addresses the significant harm I have identified to the living conditions of the occupants of Nos 23 and 25 Southbourne Drive in terms of privacy, and, in the absence of sufficient information to the contrary, the potential harm due to an increased risk of flooding in the absence of an effective surface water drainage system. The proposal would therefore conflict with the development plan read as a whole.
38. The modest benefits resulting from the proposal would not outweigh the significant harm that I have identified above.
39. Having had regard to all relevant material considerations, it has not been demonstrated that there are any of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

Hannah Guest

INSPECTOR