



Appeal Decision

Site visit made on 10 May 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/K0235/W/23/3335025

76-78 High Street, Kempston, Bedford MK42 7AR

- 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 Mr J Hussain against the decision of Bedford Borough Council.
 - The application Ref is 23/01900/FUL.
 - The development proposed is the conversion of main building into 5 self-contained flats and conversion of outbuilding into new house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on 1) the living conditions of occupants of 80 High Street with regard to privacy, and 2) highway safety with regard to cycle parking provision, traffic movements, access and refuse storage and collection.

Reasons

Living conditions

3. The appeal site comprises a two-storey building and land to the rear on High Street, Kempston. The existing plans show that the ground floor comprises a commercial bakery with preparation areas, shop area and offices. The first floor is shown to include a residential property and store-rooms. There is also an existing outbuilding on the land to the rear.
4. The appeal site is located on High Street which is a busy road with local shops and services, including residential properties. There is a two-storey terrace of residential properties to the west of the site, the closest of which is no. 80 High Street.
5. The proposed development would involve the conversion of the main building to 5 self-contained flats and the conversion of the existing outbuilding into a new dwelling. A commercial unit of a reduced size would be retained at the ground floor in the same location as the current shop area of the existing commercial operation. The appeal site has an extant planning permission¹ for the conversion of the main building to 3 self-contained flats and the conversion of the outbuilding to a dwelling.

¹ 21/00056/FUL

6. The appeal property has a number of existing openings in its side elevation which looks onto the rear of no. 80 and its garden. Two of these openings serve the existing residential unit and primarily look onto the gable of no. 80. In terms of the proposed new residential floorspace that would be created, this would involve the provision of lounge, kitchen and bedroom windows in the side elevation. Although for the most part these are existing openings, they relate to the store-room for the commercial unit.
7. In the extant planning consent, the first-floor windows in similar positions are for two bedrooms and a bathroom. The plans show that these would be partially obscured. As outlined in condition 10 of the consent this is in the interests of neighbouring amenity.
8. In the appeal development, one of the existing openings would serve a bedroom. The plans show how this would be one of three windows to the room and therefore it would be reasonable and necessary to require that this window would be, at least, partially obscured to prevent overlooking. This could have been secured by condition were the appeal to have been allowed.
9. The other openings closest to no 80 would serve the combined lounge and kitchen. This room is the main living room for the unit, and I therefore agree with the Council that this would have an unacceptable impact on outlook for future occupants if these windows were obscurely glazed. On my site visit I was able to observe the impact these windows would have in terms of overlooking. Due to their position relative to the rear elevation of no. 80 and its private rear garden, there would be a harmful degree of overlooking in very close proximity. This would cause harm to the privacy of the occupants of no. 80.
10. The proposed scheme would therefore have a greater impact in terms of its impact on privacy than the consented scheme. I acknowledge that the majority of openings are existing, however the proposed development represents a fundamental change in the use and nature of the occupation, that being for a residential property as opposed to a storage area for the commercial unit or an alternative Class E use. As a matter of fact and degree, the impact on privacy between the two are quite different.
11. The proposed development would therefore cause harm to the living conditions of the occupants of no. 80 High Street with regard to privacy. It would be contrary to Policy 32 of the Bedford Local Plan (2020) which requires, amongst other things, that development proposals should ensure that they minimise and take account of the effects of disturbance, including overlooking.
12. The development would also be contrary to design code N5 of the supplementary design guidance Residential Extensions, New Dwellings and Small Infill Developments (2000) in terms of ensuring appropriate separation of windows and overlooking of gardens in the interests of privacy.

Highway safety

13. The appeal site is served by an existing vehicular access from High Street. Having regard to the extant consent, the access could be served by four residential units. The appellant also highlights that it could be used to access the commercial unit or any future changes to it.

14. I observed on my site visit that the highway outside the site is relatively busy. I was also able to observe the visibility for drivers when using the access. When exiting the site, visibility when looking right is restricted by a combination of the front boundary wall of no. 80, shrubs in the front garden, a telegraph pole and the curvature of the road. These factors severely restrict visibility of eastbound traffic. Drivers exiting the site would be required to edge forward into the adopted highway in order to allow for full visibility and this would increase the risk of collision and cause conflict with highway users.
15. The evidence also shows the impact of planting in the front garden of no. 80. I observed on my site visit that the planting was significantly reduced from that shown in the submitted evidence and therefore there is less visual obstruction than previously occurred. It is however pertinent that the appellant does not have control over securing the visibility over the front garden, nor are they able to control the growth of the planting or any further planting that would further restrict visibility.
16. I acknowledge that the access is existing and that there is an extant consent to use it. In the extant consent however, there would be vehicle movements associated with four residential units in total. In the proposed development, there would be six residential units and a commercial unit. Even if there would be less bedrooms overall, the proposed development would inevitably result in a greater number of vehicles utilising the substandard access than in the consented scheme and thus increase the risk of collision above that of the consented scheme. I do not consider that this justifies allowing further harmful vehicular movements to occur.
17. The appellant has submitted a copy of the Transport Technical Note² that was submitted as part of the previously approved application. This document was to support the change of use of the site to a total of four dwellings. Whilst it justified the position in light of the existing commercial use, no such detailed analysis has been made with the appeal proposal, which includes part retention of the commercial use. It is clear to me that the vehicle movements between the existing commercial use, the extant consent, and the appeal proposal, which will inevitably include residents, visitors, deliveries, servicing and customers are materially different. There is no substantive evidence to demonstrate that the specifics of the proposed development are such that the vehicle movements including that of the access would not be prejudicial to highway safety.
18. In terms of refuse storage, the proposed plans show an area for the storage of containers broadly in the centre of the site along the eastern boundary. This is shown to provide storage of four 1100 litre containers and four 240 litre containers. The evidence suggests that it is sited around 50 metres from the highway. The Council's Technical Guidance³ outlines how the collection vehicle will not enter a private road which is not adopted highway. It is also outlined that collection crews will pull containers a maximum of 15 metres from storage areas to collection vehicles. This distance would be significantly exceeded in this case.
19. The containers would therefore have to be pulled to a collection point closer to the adopted highway than proposed. Given the size of the containers I find it

² Document Ref 18378/TTN REV B

³ Waste and Recycling in New Developments (2021)

would be unreasonable, and unlikely, that residents would move the containers from the proposed storage area to a collection point. It is therefore likely that containers would be left in a position closer to the adopted highway where they would cause an obstruction and/or be likely to impact on visibility.

20. In the extant consent a refuse storage area was proposed to be located within the ground floor of the existing building. Although further details are required to be submitted the location would allow for storage in closer proximity to the collection point, unlike in the current proposal. The appellant considers that refuse storage could be conditioned. In this case however given the size of the area that would be required and that such an area would have potential highway safety and logistical implications, I consider that the suitability of the refuse storage and collection should be established from the outset.
21. The Council expressed concern in relation to the provision of appropriate cycle storage and parking. Without underestimating the significance of providing appropriate cycle storage and parking in developments, I find that in this instance the size of the site when considered against the proposed site plan would allow for appropriate provision to be made. This is something that could have been secured by an appropriate planning condition were the appeal to have been allowed.
22. I therefore find that based on the evidence before me I cannot be certain that the use of the access for the scale and nature of the development proposed can be undertaken without having an unacceptable impact on highway safety. Furthermore, the proposed refuse storage and collection arrangements have not been demonstrated to be appropriate without causing additional highway safety concerns.
23. The proposed development is therefore contrary to Policies 29, 31 and 32 of the Bedford Local Plan (2020). These policies require, amongst other things, that developments have appropriate arrangements for access and dealing with waste (including recyclable materials) storage and collection.

Other Matters

24. The appellant outlines how the proposed development would provide good living conditions for the future occupants in terms of their size, levels of light and outlook. There is, however, a policy requirement to ensure high standards of amenity, therefore compliance with relevant policies is of limited weight in favour of the appeal.
25. Similarly, the absence of harm to the conservation area is a neutral factor in the balance given that developments in conservation areas are required to preserve or enhance their character and appearance.

Planning Balance and Conclusion

26. The Government's objective as set out in the National Planning Policy Framework (2023) (the Framework) is to support sustainable housing growth. The proposed development would result in a small increase in the Council's overall housing number, would be in a sustainable location, and would be on previously developed land. It would also bring a small number of additional residents to the area who would contribute to the local economy. Collectively, I give these matters moderate weight in favour of the proposed development.

27. However, the harm that I have identified that would be caused to the living conditions of occupants of no. 80 and highway safety, attracts significant weight that outweighs the benefits associated with the proposed development.
28. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
29. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR