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# Appeal Decision

Site visit made on 11 June 2024

**by E Catcheside BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 July 2024**

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**Appeal Ref: APP/K0235/W/24/3337552**

**Land at Strawberry Fields, Rear of 19-23 Green End Road and adjoining 2 Strawberry Fields, Great Barford, Bedfordshire**

**Grid Reference Easting: 512612, Grid Reference Northing: 252435**

- 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 C Neate (TILCO) against the decision of Bedford Borough Council.
  - The application Ref is 23/00918/FUL.
  - The development proposed is erection of 2 four bedroom dwellings with associated car parking and landscaping.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Revised plans were submitted during the lifetime of the application in response to concerns raised by consultees and to address local planning guidance. It was on the basis of these revised plans that the Council made its decision.
3. The appellant has also submitted some further amendments as part of the appeal (appeal amendments). The appeal amendments seek to overcome the Council's second reason for refusal by relocating the rear window serving bedroom 4 in Plot 2 to the side elevation of the proposed dwelling. The Council has stated in its appeal statement that the new window position overcomes its concerns in relation to overlooking. Additional plans have also been provided, which include an illustrative drainage layout and context plan.
4. The guidance set out in the Procedural Guide: Planning Appeals – England (Updated 11 January 2024) makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
5. Whilst the proposed revision to the window position could be seen as minor in nature, most interested parties commented on the planning application scheme that was subject to consultation by the Council and have not provided additional comments on the revised window position submitted with the appeal. Moreover, I have received a representation raising concerns about the revised window position. It is therefore feasible that the revised window position is also of importance to other interested parties.

6. In the interests of fairness, I have therefore considered the appeal based on the revised plans submitted with the planning application, and on which the Council's decision was based, rather than the appeal amendments. To proceed otherwise could unacceptably prejudice the interests of other parties.
7. The Council has commenced the preparation of the Bedford Local Plan 2040 (emerging LP), which was subject to examination hearings in June and September 2023. However, the examination of the plan is currently paused until at least January 2025 to allow the Council to address concerns raised by the Inspector in relation to the delivery of housing and the deliverability of strategic infrastructure. Consequently, the emerging LP carries limited weight in decision making and the statutory development plan remains the most important policy consideration in this appeal.

## **Main Issues**

8. The main issues are:
  - The effect of the proposal on the living conditions of the occupants of 19 Green End Road, with particular regard to privacy; and
  - the effect of the development on the character and appearance of the area.

## **Reasons**

### *Living conditions*

9. Some mutual overlooking of gardens is common in residential settings, including in the area around the appeal site. However, the proposed window in bedroom 4 of Plot 2 would be positioned very close to the rear boundary of 19 Green End Road. The proposed development would therefore fail to adhere to Design Code N5 in the Residential Extensions, New Dwellings & Small Infill Developments (January 2000) supplementary design guidance, which states that where a primary window of a habitable room directly overlooks another property or garden a privacy distance of 9 metres from the relevant boundary is required.
10. Due to the height, orientation, and proximity of the window to the boundary with No 19, future occupants of Plot 2 would have close, direct and unobstructed views over the rear garden of No 19. This would be unduly intrusive for the occupants of No 19, who could reasonably expect to carry out typical family activities within the garden, including relaxing, playing, and socialising, without undue overlooking.
11. Views from bedroom 4 of Plot 2 over No 19's garden would be particularly imposing given the elevated position of the window and the lack of intervening screening. Whilst some additional planting could be secured through condition, there is no substantive evidence before me to indicate that effective screening measures could be established without compromising the outlook from Plot 2. Therefore, the loss of privacy would cause a harmful deterioration in the living conditions for the occupants of No 19.
12. It is common ground between the parties that the proposal would safeguard the living conditions of the occupants of other neighbouring properties, and no harms have been identified in respect of daylight, sunlight, or outlook. I have

no reason to form a different view on these matters. However, these conclusions do not alter my view about the effects of the development on the occupants of No 19 through overlooking of their garden.

13. I conclude that the proposed development would cause harm to the living conditions of the occupants of 19 Green End Road, with particular regard to privacy. Consequently, there would be conflict with Policy 32 of the Local Plan 2030 Planning for the Future (adopted 15 January 2020) (LP) which, amongst other things, expects development proposals to give particular attention to factors which might give rise to disturbance to neighbours, including overlooking.

#### *Character and appearance*

14. The appeal site lies on a corner plot on Strawberry Fields, which is a residential area comprising a mix of dwelling types and sizes. The existing buildings on the street have a relatively tight grain, with limited spacing between them. Green End Road lies to the rear of the site and predominantly contains detached bungalows and two-storey dwellings on generously sized plots. The appeal site does not contain any buildings but is densely vegetated and physically enclosed behind a fence.
15. The absence of buildings on the appeal site provides space between the existing dwellings. However, the site lacks an active use, and it has become overgrown with well-established vegetation which, in the absence of any substantive evidence to the contrary, would be likely to be retained if the appeal is dismissed. Consequently, due to the length and height of the boundary fencing, and the height of the trees and vegetation on the site, limited views across this corner of Strawberry Fields are available from the street. Therefore, although there are no buildings on the site, it does not have an open character.
16. Notwithstanding the irregular shape of the appeal site, its generous size would allow for the siting of two well-proportioned dwellings without compromising the adequacy of the proposed internal accommodation or external amenity space, or on-plot parking provision. Furthermore, the new dwellings would be well-spaced from each other and nearby properties, and the proposed biodiversity areas would maintain large unbuilt gaps between Plot 2 and 2 Strawberry Fields, and to the rear of Plot 1. Along with the staggered set back from the highway edge, these gaps would enable public views to be available between and around the proposed dwellings, as well as along the street frontage. Consequently, the development would have a spacious character that would not be unduly enclosing or overly dominant in public views from either Strawberry Fields or Green End Road.
17. Indeed, because the proposed dwellings would address Strawberry Fields and would have a similar design to other buildings on the same street, the development would be viewed as a continuation of the existing built form. It would also enable the appeal site to be brought into an active use which, in all reasonable likelihood, would prevent further unmanaged vegetation growth on the site. Conditions could secure the management of the proposed biodiversity areas to ensure they continue to provide attractive, landscaped space between buildings in the longer term. Overall, this would enable the development to make a positive contribution to local character.

18. The proposed residential land use would inevitably introduce additional domestic paraphernalia to the street, some of which would be visible from the public realm. It is likely that such items would include parked vehicles, pedestrian access routes, outdoor furniture, and washing lines, amongst other things. However, given the site lies within a built-up residential area where domestic items are commonly observed, the development would be sympathetic to the local context. Moreover, the proposed boundary hedgerows and fencing would provide adequate screening to ensure the proposal did not introduce unnecessary clutter to the street scene.
19. Overall, I conclude that the proposed development would not cause harm to the character and appearance of the area. Therefore, there would be no conflict with Policies 28S, 29, and 30 of the LP and Policy D1 of the Great Barford Neighbourhood Plan 2020-2030 (made 19 January 2022) which, taken together and amongst other things, seek to secure high quality design that integrates well with and contributes positively to local character, context, and development patterns.

### **Other Matters**

20. Given its location within the established and well-connected residential area of Great Barford, the Council has not raised any objection to the principle of residential development on the site. Based on the evidence, and my own observations, I have no reason to take a different view. I attach neutral weight to the sustainability of the location.
21. No harm has been identified in respect of the standard of the accommodation proposed, which would provide sufficient internal and external space for future occupiers. The absence of harm weighs neither for nor against the proposal.
22. The submitted plans show the side boundary of Plot 1 would be sited close to an existing street tree. However, the Council's Tree Officer raised no objection to the proposal, and I have no reason to conclude the tree could not be adequately protected during construction works and following the occupation of the dwelling. Therefore, the proximity to the tree need not be an impediment to planning permission being granted.
23. A small part of the appeal site lies within Flood Zone 2. The Council has not raised any objection on flooding grounds and no buildings or hard surfacing are proposed to be constructed within the flood zone. However, I have not been provided with a site-specific flood risk assessment or any substantive evidence in respect of the sequential test and, if necessary, the exception test. However, as I am dismissing the appeal for other reasons, I have not considered this matter further.
24. The proposal has evolved in response to a previous refused planning application at the site. However, I have determined the appeal on its own merits and based on the evidence before me. Therefore, the previous planning application is not determinative to my conclusions.

### **Planning Balance and Conclusion**

25. The proposed development would not cause harm to the character and appearance of the area. However, it would cause harm to the living conditions of neighbouring residents through an unacceptable loss of privacy. I attach

significant weight to this harm and the associated conflict with Policy 32 of the LP.

26. There would be some benefits arising from the appeal proposal, including the delivery of two dwellings which would contribute towards the national objective to significantly boost the supply of homes. There would also be some economic benefits, including through the creation of construction jobs. Future occupants of the dwellings would also contribute to the local economy through increased spending. However, the contribution that would be made by two dwellings would be modest. Therefore, these benefits carry moderate weight.
27. The proposed development would deliver a biodiversity net gain that would go beyond the 10% requirement set out in Policy NE2 of the NP. This would be a benefit of the scheme and, therefore, this matter carries moderate weight in support of the proposal.
28. However, whilst these benefits weigh in favour of the development, they do not justify the identified harm or outweigh the policy conflict.
29. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, the appeal should be dismissed.

*E Catcheside*

INSPECTOR