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## Appeal Decision

Site visit made on 15 January 2025

**by J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 18<sup>th</sup> February 2025

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**Appeal Ref: APP/K0235/W/24/3350523**

**Land adjoined to 37 Bedford Road, Great Barford, Bedfordshire MK44 3JF**

- 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 Ray Sabey of Sabey Builders Ltd against the decision of Bedford Borough Council.
  - The application Ref is 24/00664/FUL.
  - The development proposed is detached dwelling (Bungalow).
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs has been made by Mr Ray Sabey of Sabey Builders Ltd against Bedford Borough Council. This is the subject of a separate decision.

### Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submissions from the parties on this matter. I have considered their additional submissions alongside the original representations. On 7 February 2025, further minor revisions were made to the Framework. As these revisions do not materially alter the matters in dispute, I have not sought further representations from the parties.
4. Also, on 12 December 2024 the Government published the results of the 2023 Housing Delivery Test (HDT). Over the preceding three years 145% of the Council's housing requirement was delivered. This has increased from 130% which was the measurement within the 2022 HDT. The position with regard to the overperformance has not changed and the result of the 2023 HDT is not materially different to the 2022 HDT. Consequently, it was not necessary to consult the parties on the result of the 2023 HDT.
5. The Decision Notice listed the plans that were reviewed by the Council when determining the planning application. The specified plan revisions did not correspond with those submitted with the appeal. Subsequently the Council has confirmed in writing that the revisions of the plans submitted with the appeal were the same as those that were before them, when they determined the planning application. The only exception is the Topographical Survey which is submitted as new evidence as part of the appeal.

6. The address in the banner above is taken from the Appeal Form, rather than the Application Form, as it is a more accurate description for the appeal site.

### **Main Issue**

7. The main issue of the appeal is the effect of the proposal on the living conditions of occupiers of 37 Bedford Road (No 37) with particular reference to outlook, privacy, daylight and sunlight.

### **Reasons**

8. The appeal site comprises of a piece of land that is split by a fence. Part of the site is a grassed area, whilst the remaining area comprises of hardstanding and gravel. The appeal site gradually slopes downhill from south to north.
9. The proposed bungalow has been reduced in height and depth from previous iterations of the design. Nonetheless, it would include a high-pitched roof which would have a ridge height of 6.2m. It would be orientated perpendicular to No 37 and the rear windows would look directly toward No 37's rear courtyard. No 37 also has a side garden which runs parallel to the appeal site.
10. The proposed bungalow would be sited on land which is approximately a metre higher than No 37's courtyard. There would also be limited separation between the proposed bungalow and several windows serving habitable rooms within No 37. These factors combined with the height of the proposed bungalow and tall roof would lead to it appearing overbearing when viewed from within No 37 and its courtyard.
11. A condition could be attached to a planning permission requiring the proposed ground levels and finished floor levels to be agreed. Nonetheless, given the difference in the ground levels and the height of the proposed bungalow, the appeal site would need to be significantly reprofiled to achieve an acceptable relationship. It has not been demonstrated that the necessary works could be implemented in practice. In this instance, it would not be reasonable to attach a condition requiring the proposed ground levels and finished floor levels to be agreed, as it may render the permission unimplementable.
12. Due to the difference in height between the appeal site and No 37 and lack of separation, future occupiers of the proposed bungalow would overlook No 37 from the ground floor rear windows and sliding door. Notwithstanding this, any harm caused by overlooking from the ground floor openings could be fully mitigated by installing tall boundary treatments. Whilst this would address concerns with overlooking, it would lead to further harm to the outlook experienced by occupiers of No 37.
13. Given the orientation of the appeal site and No 37 it is likely that the proposed bungalow would cast a shadow over No 37's side garden but not its courtyard. Moreover, this would only occur for part of the day. As the proposed bungalow would only cast shadow over part of No 37's external area for part of the day, it would not be materially harmful to the amount of sunlight and daylight experienced by occupiers of No 37.
14. The proposal would accord with the separation distances specified within Design Code N5 of the Residential Extensions, New Dwelling & Small Infill Developments design guidance, January 2000 (RENDSID). It would also be in general

accordance with the guidance in relation to sunlight and daylight within RENDSID Design Code N6. Nevertheless, as the proposed bungalow would have an overbearing effect due to its scale and proximity, it would be contrary to RENDSID Design Code N7.

15. I conclude that the proposal would have a harmful effect on the living conditions of occupiers of No 37, with particular reference to outlook. The proposal would be contrary to Policy 32 of the Local Plan 2030, Planning for the future, January 2020 (LP). This Policy indicates that proposals should ensure that they minimise and take account of the effects of disturbance and applications should give particular attention to factors which may give rise to disturbance to neighbours.

### **Other Matters**

16. I note the appellant's comments in relation to how the Council assessed the proposal. However, this is a matter between the parties, and it is not a matter for my consideration on the acceptability of the appeal proposal.
17. Set against the identified harm would be benefits of the proposal. This includes the supply of a dwelling in a sustainable location and economic benefits associated with the construction period and the support one extra household would provide the local economy. However, given the scale of the proposal, I only ascribe moderate weight to these benefits. The fact the Council consider the proposal to be acceptable regarding its effect on the character and appearance of the area and highway safety, and a lack of objection from the Parish Council are neutral factors.

### **Planning Balance**

18. The LP dates from January 2020 but the weight attached to it does not hinge on its age. Rather paragraph 232 of the Framework advises that due weight should be given to existing policies according to their degree of consistency with the Framework. Paragraph 135 of the Framework indicates that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. Therefore, the conflict between the proposal and LP Policy 32 should be given significant weight in this appeal. As there are no policies in the LP which support development which is contrary to LP Policy 32, the proposal conflicts with the development plan as a whole.
19. The Council can only demonstrate 3.46 years' supply of deliverable housing land. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. As described above the benefits associated with a single dwelling would be moderate even when taking account of the objective of boosting significantly the supply of housing. Also as above, the proposal would have a harmful effect on neighbouring living conditions. This would be contrary to the guidance within the Framework where it advises that decisions should ensure that developments create places with a high standard of amenity. The effect would be permanent and persistent, as such significant weight is attributed to the harm.

21. Consequently, the adverse impacts on the living conditions of neighbouring occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

**Conclusion**

22. The proposal conflicts with the development plan when considered as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

*J Hobbs*

INSPECTOR