



Appeal Decision

Site visit made on 6 May 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 JUNE 2025

Appeal Ref: APP/K0235/W/25/3358335

Wilstead Evangelical Church, 141 Cotton End Road, Wilstead, Bedford MK45 3DD

- 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 Wilstead Evangelical Church against the decision of Bedford Borough Council.
 - The application Ref is 24/01124/FUL.
 - The development proposed is erection of a detached dwelling following the demolition of the existing church building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's second reason for refusal indicates harm to 'existing neighbours' in a plural sense. However, the committee report, upon which the Council rely, only identifies perceived harm to 143 Cotton End Road. I have proceeded on that basis.
3. The appellant has submitted alternative drawings contained within Appendix 1 of their Statement of Case. The changes relate to the design of the south facing first-floor window. The appellant has not asked for the plans to be substituted. Rather, they have asked that the revised window be secured by condition should the appeal be allowed. I have dealt with this matter in my reasoning below. However, in the interests of clarity, I have determined the appeal based on the original plans.

Main Issues

4. The main issues in determining this appeal are, the effect of the development on:
 - community facilities within the locality; and
 - the living conditions of the occupiers of 143 Cotton End Road, with particular regard to privacy and outlook.

Reasons

Community facilities

5. The appeal site is currently used as a place of worship by the Evangelical Church. The proposal would result in the loss of the existing church in favour of a newly erected dwelling.
6. Policy 99 of the Bedford Borough Local Plan 2030 (2020) (Local Plan) permits the loss of community facilities, provided that the facility is surplus to existing and

future needs, or it is to be relocated and is of a similar scale to the current facility, of an equivalent standard and able to serve the community.

7. Policy CF1 of the Wilshamstead Neighbourhood Plan 2021-2035 (2022) (Neighbourhood Plan) only supports the loss of valued community facilities if it can be clearly demonstrated that its continued use is no longer viable or that appropriate alternative arrangements are more suitable for commercial uses. It goes on to say that this will require evidence that the property has been actively marketed, commensurate with its use, at an open market value for a period of at least 12 months. Amongst the facilities listed specifically in the policy are the 3 village churches.
8. The evidence before me states that the Wilstead Evangelical Church has recently acquired the larger Wilstead Methodist Church that was previously vacant and is a short distance from the appeal site. There is agreement between the main parties that, as the Evangelical Church is due to relocate to an alternative premises which has a greater internal floorspace, it complies with Policy 99 of the Local Plan.
9. The dispute lies in respect of Policy CF1 of the Neighbourhood Plan. As the 3 village churches are listed within Policy CF1, and named explicitly within the supporting text, it is clear to me that the Wilstead Evangelical Church does indeed constitute a 'valued community facility' and the policy should apply. Moreover, the Neighbourhood Plan is relatively recent, having been found to meet the Basic Conditions and other legal requirements. I therefore attribute it full weight.
10. The policy drafting does not lend itself particularly well when considering a place of worship as it is not necessarily commercial in nature. However, the supporting text explains the policy is intended to retain the community facilities and services to maintain Wilstead as a sustainable village. It goes on to say that demolition of any of the facilities listed which are not for the community, will be resisted unless replacement would prove more suitable for the needs of the community. It also states that the applicant will need to put forward evidence that the existing use is no longer commercially viable and, prove that a genuine attempt has been made to market the enterprise as a going concern for at least a year.
11. The policy requires the facility to be actively marketed for disposal commensurate with its use. No evidence of the building having been marketed for disposal is presented. Therefore, based on the evidence before me, I cannot be certain that the continued use of the building is no longer viable as this has not been properly tested.
12. Whilst noting that Wilstead Parish Council and the Local Ward Member support the loss of the church in principle, this appears to be predicated on the Evangelical Church moving to their recently acquired Methodist Church premises, for which I am not aware of any mechanism to secure this. Furthermore, allowing the loss of the facility, risks undermining the views of local residents. They voted by majority in the referendum for the Neighbourhood Plan, for which protection of the 3 churches was part of. Consequently, I give this counter argument limited weight.
13. The appeal proposal would result in the loss of a valued community facility in the locality, without having properly demonstrated with evidence, that its continued use is no longer viable. As a more recent and specific policy than Policy 99 of the Local Plan, given the circumstances of this case I attach greater weight to Policy CF1 of the Neighbourhood Plan, with which the appeal conflicts.

Living conditions of occupants of No. 143 Cotton End Road

14. The appeal property, Wilstead Evangelical Church, comprises a modern building located on the northern side of Cotton End Road in Wilstead. This single storey building benefits from a clear glazed window above its main entrance doors allowing light into the open plan congregation space below. It is set further away from the roadside than its immediate residential neighbours at 137 and 143 Cotton End Road, projecting back into the site and sitting just off the northern boundary.
15. No.143 is a two-storey dwelling with a rear outrigger served by west facing windows, a glazed entrance door and patio doors. It is separated from the appeal site by a close boarded timber fence topped with trellis to a height of approximately 1.8m and has a modest patio area immediately west of the two storey-outrigger. At my site visit I observed it provides for a seating and barbeque area. The remainder of its garden and an outbuilding is located to the north, albeit the majority of this is in use as a parking space accessed from its rear.
16. The eaves and ridgeline of the proposed dwelling would be higher than the existing building on site. In addition, a first-floor window serving a bedroom would face south. This would afford occupiers a clear view into the courtyard area associated with No. 143 as well as facilitating indirect views into the living space of the dwelling at close range. This first floor window would introduce new overlooking into the neighbours currently private courtyard and habitable rooms from an elevated position that is not currently possible. This would adversely affect their privacy.
17. Support for my findings is set out in the 'Design Guide: Residential Extensions, New Dwellings and Small Infill Developments' Supplementary Design Guidance (2000) (SPG). Design Code N5 (Privacy) guides that where a primary window of a habitable room directly overlooks another property or garden, a 9m privacy distance is required. The distance between the first-floor window and the boundary in this case is significantly less than the guidance.
18. The appellant has advanced alternative drawings which they assert would address the harm by angling the first-floor window away from the neighbour. They have asked that I deal with this as a condition. I am not satisfied that the alternative plan fully demonstrates that the harm would be sufficiently negated. Furthermore, it would still leave occupiers of No. 143 vulnerable to perceived overlooking at close range. A condition to secure an alternative, more angled window would not be acceptable given that it would create uncertainty for third parties and their ability to properly engage in the planning process.
19. In terms of its relationship with No. 143, the siting of the appeal dwelling would be similar to the existing building, albeit it would also be pulled in slightly from the eastern boundary. The footprint would be smaller and the increased building height is relatively modest. However, taking into account the close proximity of the neighbouring property, even this modest increase in height would be noticeable, materially worsening the outlook for the occupiers of No. 143. Therefore, I find that the proposed dwelling would have a dominating effect on the neighbours, adversely affecting their outlook.
20. For the reasons set out above, the development would result in an adverse effect on the privacy and outlook of the occupiers of No. 143 which conflicts with Policy 32 of the Local Plan and BE2 of the Neighbourhood Plan. Amongst other things,

these policies require developments to minimise the effects on neighbours including from privacy which this scheme fails to achieve.

Other Matters

21. As an existing use, and one which the Neighbourhood Plan has sought to actively retain, I do not find that the existing use is non-conforming and therefore give this limited weight.
22. The Council confirm they are unable to demonstrate a five-year supply of deliverable housing sites (5YHLS) in accordance with the National Planning Policy Framework (the Framework). The level of shortfall is unknown.
23. An inability to demonstrate a 5YHLS warrants the application of paragraph 11(d) of the Framework which relates to the presumption in favour of sustainable development. In this case it means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
24. Paragraph 88 of the Framework sets out that decisions should enable the retention of community facilities, including places of worship which this scheme would not achieve. Moreover, I have found that the development would have a significant adverse effect on the living conditions of existing occupiers. Paragraph 11(d)(ii) of the Framework requires me to have particular regard to securing well-designed places which includes, at Paragraph 135, a high standard of amenity for existing users, which I have concluded this scheme does not achieve.
25. The scheme would provide housing for a dwelling within a location where occupants would be able to access local services and facilities. This weighs in favour of the scheme. However, weighed against the benefits of a scheme for just one dwelling, I find the adverse effects to significantly and demonstrably outweigh these, 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

26. The proposal would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight, including the approach of the Framework in regard to housing supply, that would indicate a decision other than in accordance with the development plan. Therefore, for the reasons given above, the appeal is dismissed.

C Walker

INSPECTOR