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## Appeal Decision

Site visit made on 24 September 2019

**by L Perkins BSc (Hons) DipTP MRTPI**

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

**Decision date: 30<sup>th</sup> October 2019**

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**Appeal Ref: APP/K0235/W/18/3214674**

**122 Bromham Road, Bedford MK40 2QN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Nijjer against the decision of Bedford Borough Council.
  - The application Ref 18/00828/MAF, dated 3 April 2018, was refused by notice dated 26 July 2018.
  - The development proposed is: Erection of a building to provide 14 additional flats along with new access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant name given on the appeal form does not match the applicant name given on the planning application form. Written confirmation has been received that the appellant is the applicant, as stated in the heading above.
3. The description of development on the application form indicates 13 additional flats are proposed. However, the appeal form, decision notice and drawings provided all indicate 14 flats are proposed and so I have used this figure in the description in the heading above.
4. Since the application was submitted to the Council the National Planning Policy Framework (the Framework) has been revised. I have taken any comments made on relevant implications for the appeal into account in my reasoning.

### Main Issues

5. The main issues are:
  - the effect of the proposal on the character and appearance of the area including the Bedford Conservation Area and the setting of nearby listed buildings,
  - the effect on the living conditions of adjoining occupiers with particular regard to outlook,
  - whether adequate provision would be made for the sustainable disposal of surface water, and
  - the effect of the proposal on trees.

## Reasons

### *Character and Appearance*

6. The appeal site is within the Bedford Conservation Area and is adjacent to Grade II listed buildings at 126-128 Bromham Road. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In considering whether to grant planning permission for development which affects the setting of a listed building, Section 66(1) of the same Act requires me to have special regard to the desirability of preserving the building's setting. Significance can be harmed or lost through development within its setting.
7. The area is characterised by large plots containing spacious detached and semi-detached buildings, set back from the road and enclosed by front boundary walls with large gardens to the rear. There is a regular rhythm of buildings and spaces in the area, interspersed with mature trees. These features contribute to the area's character and the significance of the conservation area. The appeal site is no exception to the above. It contains an unusual detached Victorian orné building with a distinctive clock tower and a generous rear garden. The site has a spacious open character and makes a positive contribution to the conservation area. Nos 126 and 128 are distinctive cottage ornés and also make a positive contribution to the area due to features which include their modest scale and spacious gardens. These features contribute to their significance as heritage assets.
8. The appeal scheme is a predominantly 2 storey block of flats which would occupy a significant part of the rear of the appeal site. It would have a wide U-shaped footprint and would be sited very close to the rear and side boundaries. In this regard it would be unlike any other form of residential development seen in the area and would significantly compromise the area's spacious and open character. Part of the front boundary wall, which defines the public and private realm, would be removed to provide an additional access. This would harm the character and appearance of the area.
9. Compared with neighbouring sites, the proposal would appear as a cramped development which due to its scale, layout and proximity to the boundary, would not be subservient to the existing building on the site. Moreover, the proposal includes extensive hard surfacing of the site which would erode its garden-like character. Considering all of the above points, the proposal would harm the character and appearance of the area, including the conservation area and the setting of the adjoining listed buildings which are appreciated within the context of the appeal site.
10. The scheme would be clearly seen from surrounding land. Although views from Bromham Road would be limited, as I saw on my site visit and as is shown on the proposed street elevation, views of the proposal would be possible from Bromham Road over the existing boundary treatment and through the access into the site. The size and scale of the appeal scheme in the context of the conservation area as a whole is modest. I therefore consider the harm caused to it and the setting of the listed buildings, would be less than substantial. Nevertheless, any harm to the significance of a designated heritage asset should require clear and convincing justification and in accordance with

paragraph 196 of the Framework, I must weigh this against the public benefits of the proposal.

11. The appeal scheme would provide 14 additional dwellings in a location with good access to services and facilities. Positive though this would be, it would not be sufficient to outweigh the harm to the significance of the conservation area and the listed buildings and as per paragraph 193 of the Framework, great weight should be given to the conservation of these heritage assets. Whilst Historic England may not have objected to the proposal, this does not make it acceptable.
12. I conclude the proposal would harm the character and appearance of the area and would not comply with the heritage policies of the Framework or policies of the development plan. These include saved Policies BE9, BE11, BE21, BE29, BE30, BE37 and H38 of the Bedford Local Plan 2002 (the Local Plan), Policy CP21 and CP23 of the Core Strategy and Rural Issues Plan 2008 (the Core Strategy) or the Residential Extensions, New Dwellings and Small Infill Development Supplementary Design Guidance (the SDG). Together these seek that development is designed to the highest standards with regard to its context and matters including scale and layout and that the character and appearance of conservation areas and the setting of listed buildings is preserved or enhanced.

#### *Living Conditions*

13. The appeal development would be sited very close to the boundary with adjoining properties including 120, 126, 128 and 130 Bromham Road and 99 Ashburnham Road. The height and proximity of the proposed building would have an overbearing effect on Nos 120 and 130 as a 2 storey high flank elevation would be very close to the rear garden of these properties, particularly No 120 where the garden is of a modest size. Whilst less of the proposal would be sited close to No 99 the effect would still be harmful in my judgement.
14. The proposed building would also be close to Nos 126 and 128. A shed in the garden of No 128 mitigates the effect to some extent and the proposed building is single storey where it adjoins this property. Storage buildings would be sited adjacent to the rear boundary of No 126 but no information has been provided of the height of these and so I cannot be certain that the effect would be acceptable.
15. I conclude the proposal would harm the living conditions of adjoining occupiers with particular regard to outlook. It would therefore not comply with Policy BE37 (ii) of the Local Plan or the SDG. Together these seek that development respects the standard of amenity presently enjoyed by adjoining occupiers and resist development which would have an overbearing effect on another property because of its scale, massing and proximity.
16. My attention has been drawn to Policy BE30 (ix) of the Local Plan and Policy CP21 of the Core Strategy. But it has not been explained how these are relevant to this main issue and so in respect of this main issue I find no conflict with these policies.

### *Surface Water*

17. Policy U2 of the Local Plan resists development that would be at risk of being flooded or that would unacceptably increase the risk of flooding. The Sustainable Drainage Systems Supplementary Planning Document 2018 (the SPD) reflects the Framework in that it seeks that all major development<sup>1</sup> should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
18. The application states that surface water will be disposed of to a soakaway rather than a sustainable drainage system. Moreover, the drawings show hard surfacing or built development is proposed over most of the appeal site. Limited information has been provided to explain in this case how surface water may be disposed of in a sustainable manner. Considering the space shown in this case for landscaping, amenity space, parking, circulation and storage, I am not satisfied sufficient space would be left on the site to reasonably require a sustainable drainage system by means of the imposition of a planning condition.
19. Nor, on the basis of the information provided, am I satisfied that Building Regulations requirements in respect of this main issue are the same as those of the Council's SPD. I therefore conclude adequate provision would not be made for the sustainable disposal of surface water in this case and this would not comply with Policy U2 of the Local Plan or the SPD.

### *Trees*

20. The existing vehicular entrance to the site is adjacent to a substantial Purple Beech tree which has low branches. A Yew tree and Magnolia tree exist very close to where it is proposed an additional vehicular access is constructed into the site. Limited information has been provided to satisfy me the new access would not cause harm to the Yew or Magnolia, and, whilst cars may pass underneath the Beech tree, taller vehicles, such as those required during construction, would be likely to damage this tree. No details have been provided to satisfy me this would not be the case.
21. Whilst there may be no legal impediment to taller vehicles using the existing access, in my judgement, construction of the proposal would increase the likelihood of tree damage occurring. The aforementioned trees make a significant contribution to the character and appearance of the area and so damage to them should be avoided. I am not satisfied that further fencing alone would avoid the harm identified above nor would using only the proposed new access be sufficient due to its proximity to the Yew and Magnolia. Based on the information provided, I am not satisfied sufficient space exists on the site for tree protection to be reasonably left to a planning condition.
22. I conclude the proposal would be likely to result in harm to trees, contrary to saved Policy NE4 of the Local Plan which seeks to protect and retain trees of amenity significance.

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<sup>1</sup> This includes residential development of 10 dwellings or more.

### **Other Matters**

23. My attention has been drawn to a recent development at St Bede's School nearby. However, this was a comprehensive redevelopment of a site which has a street frontage and a different relationship to adjoining sites than the appeal site which is a backland development. I therefore do not find it directly comparable.
24. My attention has also been drawn to development plan policies which are not cited in the Council's reasons for refusal. However, as set out above, I have found conflict with policies of the development plan, and conflict with the development plan overall and so policies not cited in the reasons for refusal do not change my overall conclusion.

### **Planning Balance**

25. The appellant states that the Council does not have a 5 year supply of deliverable housing sites. This being the case, paragraph 11 (d) of the Framework is engaged. Accordingly, permission should be granted 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.
26. I acknowledge there are benefits of the scheme including the provision of 14 additional dwellings in a location with good access to services and facilities. Nevertheless, I consider the harm identified above significantly and demonstrably outweighs the benefits of the appeal scheme when assessed against the policies of the Framework taken as a whole.

### **Conclusion**

27. For the reasons given above the appeal is dismissed.

*L Perkins*

INSPECTOR