
Appeal Decision

Site visit made on 19 September 2016

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th October 2016

Appeal Ref: APP/B0230/W/16/3151509

57 Hibbert Street, Luton LU1 3UX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Rob Burton against Luton Council.
 - The application Ref 16/00326/FUL, is dated 24 February 2016.
 - The development proposed is a single storey apartment to the rear of 57 Hibbert Street, Luton.
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Decision

1. The appeal is dismissed and planning permission is refused for a single storey apartment to the rear of 57 Hibbert Street, Luton.

Procedural Matter and Main Issues

2. The Council has submitted that had it been in the position to determine the application, it would have refused permission for reasons relating to the effect upon the living conditions for the occupants of the development and those of adjoining properties.
3. Taking the Council's putative reasons for refusal as a starting point, I consider the main issues are the effect of the development on: the living conditions of the occupiers of 57 Hibbert Street (No 57), with particular regard to outlook, light and outdoor space; and the living conditions for the occupiers of the development, with particular regard to the availability of internal and outdoor space.

Reasons

Living conditions for the occupiers of No 57

4. No 57 is a two storey, with basement, end of terrace property, situated at the junction between Hibbert Street and Latimer Road. Within No 57's unkempt rear garden/yard area (rear area) there are some single storey structures. No 57 is occupied as two dwellings.
 5. The appeal development would involve the demolition of the single storey structures and the construction of a detached single storey building with a pitched roof for occupation as a one bedroom dwelling.
 6. I estimate the rear area to be around 5.0 metres wide immediately beyond the No 57's main rear elevation and the application plans show the proposed building would be sited by between around 2.0 to 2.5 metres in advance of
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the main rear elevation and the intervening external space of 8.75 square metres would serve as the outdoor space for the occupiers of one or other or both of the existing dwellings at No 57. It would appear from the details shown on drawing 'Burton/001' that this outdoor space would be enclosed by some form of boundary enclosure separating it from a second space that would be allocated to the new dwelling. The outdoor space for the occupiers of No 57 would be enclosed on all sides by buildings and boundary enclosures and this area, given its limited dimensions, would be a highly constrained space and its utility would be affected by the presence of the stairwell providing access to No 57's basement.

7. I find that the outdoor space allocated to the occupiers of No 57 would be very cramped and that it would provide an uninviting external environment, given the degree of its close quarter's enclosure. This area would therefore inadequately serve the needs of the occupiers of No 57. While other schemes without outdoor space have been referred to, I do not know the circumstances that gave rise to those developments and in any event each case must be considered on its merits and that is what I have done.
8. The ground floor flat within No 57 has a bedroom window in its rear elevation and the outlook from that window would variously be towards the fence marking the boundary between Nos 57 and 59, the southern elevation of the new building and the means of enclosure separating the outdoor spaces of the existing and new dwellings. The proximity of the aforementioned means of enclosure and elevation would mean that the outlook from the ground bedroom window would be very limited and I find that this would be harmful to the living conditions for the users of this room. In reaching this finding I am mindful of the proximity of the existing single storey projection, however, some channelled outlook from the ground floor bedroom window is currently available towards 73 Latimer Road, something that would change with the sub-division of the rear area.
9. I accept that the receipt of natural light to the ground floor flat's bedroom would be affected by the siting of the new building. However, I find it likely that there would be a marginal improvement over the prevailing situation, because the existing rear protection is closer to the affected bedroom window than would be the case for the new building.
10. For the reasons given above I conclude that the development would be harmful to the living conditions for the occupiers of No 57, given the inadequacy of the outdoor space provision and the loss of outlook from the ground floor bedroom window. I therefore find that there would be conflict with saved Policies LP1 and H2 of the 'Luton Local Plan 2001 – 2011' of 2006 (the Local Plan), insofar as harm to the living conditions for the occupiers of No 57 would arise because the new building would not be well sited relative to a neighbouring building, with that being indicative of this scheme being an over-intensive form of development for this site. There would also be conflict with the fourth core planning principle (paragraph 17 of the National Planning Policy Framework [the Framework]) in that a good standard of amenity would not be available for all existing and future occupants of a building.

Living conditions for the occupiers of the development

11. The new dwelling's external space would have an area of around 10.5 square metres and this would be enclosed at close quarters on all sides by two walls

of the new building, the boundary fence between Nos 57 and 59 and the means of enclosure between this outdoor space and that to be used by the occupiers of No 57. The new dwelling's outdoor space would therefore be very compact and would offer its users very little outlook. I therefore find that this aspect of the development would leave the occupiers of the new dwelling with a poor external living environment.

12. The Council has submitted that the new dwelling would have a gross internal floor area (GIA) of 33 square metres, a figure not disputed by the appellant. Reference has been to the 'Technical housing standards – nationally described space standard' (The THS), which were introduced by the Government in March 2015. The THS for one bedroom, two person, single storey dwellings indicates that the GIA should be no less than 50 square metres. However, as the Council recognises, the THS cannot be fully applied because there was no adopted Local Plan policy setting local floorspace standards in place prior to the introduction of the THS.
13. However, treating the THS as a guide only, it is clear that the dwelling's floor area would be around two thirds of the acceptable minimum identified by the Government. I therefore find that the limited internal space that would be available to occupiers of the new dwelling is indicative of this being a cramped form of development, a factor weighing against this proposal.
14. For the reasons given above I conclude that the appeal development would not provide its occupiers with acceptable living conditions. There would therefore be conflict with Policies LP1 and H2 of the Local Plan in that the development would not maximise the opportunity to improve the quality of life of residents and, in failing to provide adequate living conditions for its occupiers, it would amount to an over-intensive form of development. There would also be conflict with the fourth core planning principle (paragraph 17 of the Framework) in that a good standard of amenity would not be available for all future occupants of a building.

Other Matters

15. The Council's putative reasons for refusal refer to conflict with its emerging Local Plan. However, no copies of the cited emerging policies were included with the Council's case, nor has the Council indicated the stage to which the emerging Local Plan has reached in its production. However, as I have found there to be conflict with saved policies of the extant Local Plan any conflict with the emerging Local Plan is of little consequence.
16. While I am aware of this site's previous appeal history¹, I have found it unnecessary to refer to it in any detail because it concerns schemes of a different nature, namely two dwellings.

Conclusion

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

Grahame Gould

INSPECTOR

¹ APP/B0230/A/14/2225776 and APP/B0230/W/15/3134724