
Appeal Decision

Site visit made on 9 November 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 22nd November 2016

Appeal Ref: APP/P0240/W/16/3157152

Rear of 155 to 161, Luton Road, Dunstable LU5 4LP

- 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 Mr J Peek, Peek Developments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/02179/FULL, dated 21 May 2016, was refused by notice dated 18 July 2016.
 - The development proposed is the construction of two semi-detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two semi-detached dwellings at Rear of 155 to 161, Luton Road, Dunstable LU5 4LP in accordance with the terms of the application, Ref CB/16/02179/FULL, dated 21 May 2016, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the surrounding area.

Reasons

3. The appeal site comprises the end of relatively long gardens of four semi-detached dwellings fronting onto Luton Road. The site would be accessed from a private road off Kingsbury Avenue, which has been named Aubrey Close. This runs between a detached dwelling and pair of semi-detached houses and also provides the access to an existing pair of recently built of semi-detached dwellings and detached garages. I understand that these dwellings were built on the site of a garage block that abutted the rear gardens of Kingsbury Gardens. The development would of a broadly identical design to these dwellings.
 4. The appellant has argued that the development would be no different in terms of its impact on local character to those recently built adjacent to the appeal site. The Council have suggested that as the previous scheme was on a brownfield site it was different in principle to the appeal proposal. However, the Council have not pointed to any specific policies which restrict development in residential gardens within the Local Plan. Moreover, Paragraph 53 of the National Planning Policy Framework (the Framework) does not indicate any presumption against garden development. In any case, this paragraph relates to the preparation of development plans, not the determination of planning
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- applications. The single reason for refusal of the application relates to the effect of the development on the character and appearance of the area and not a matter of principle. Therefore, taking all matters into account, the previous use of the sites is not a significant determinative factor in my decision.
5. The principle of development in this backland location has been established by the earlier scheme and the development would have a comparable effect on the character of the area. While the appeal site may be marginally closer to Luton Road and would remove an element of garden space, there is very little difference between the two sites in terms of their visual relationship with Luton Road, Kingsbury Avenue or Kingsbury Gardens. Development along Luton Road does have a strong linear relationship with the street. It is not unusual, however, to be able to see dwellings behind this building line, either through gaps between dwellings or at the end of a number of private roads. In the vicinity of the site, parts of Kingsbury Gardens, The Retreat, Dale Close and Lambs Close can all be seen in glimpsed views from Luton Road and do not appear incongruous in a residential area such as this.
 6. The other semi-detached pairing is already visible through gaps in between the houses fronting Luton Road. They also do not appear as an incongruous or overly dominant feature. Rather, they appear no different to how the dwellings on the aforementioned nearby streets are viewed. The development would not appear significantly different to the existing dwellings in this regard. As such, I see no particular harm resulting from the development to the linear character or urban grain of Luton Road or Kingsbury Avenue.
 7. The reduction in garden size would mean that the gardens of the four 'host' properties would be smaller than some of their neighbours. However, the dwellings nearer to the corner with Kingsbury Avenue are shorter than those on the appeal site and they would still be large enough to provide adequate private amenity space for the occupants. Moreover, the resulting change in garden length is not something that would be discernible from Luton Road or Kingsbury Avenue itself. Therefore, the change in size would have little bearing on the character of the Luton Road or Kingsbury Avenue street scenes. Any harm that would result to the uniformity of garden space to the rear of the dwellings would not be significant. When viewed through the access, the existing semi-detached dwellings also sit in a reasonably spacious setting and do not appear cramped or give rise to any concerns of over intensive development. While the proposed development would be inset from the existing line of rear gardens, I am satisfied that the same general feeling of spaciousness can also be maintained here.
 8. For the reasons given above, I am satisfied that the development would not appear incongruous on the Luton Road street scene or materially harm the existing urban grain or visual amenity of the surrounding area. As such, it would not have an unacceptable impact on the character and appearance of the area. Accordingly, there would be no conflict with saved Local Plan¹ policies BE8 and H2 or the Central Bedfordshire Design Guide which, amongst other things, seek to ensure development is of a high standard of design that complements and harmonises with the local character. I also see no conflict with the objectives of the Framework, which seeks to ensure development provides a high quality built environment.

¹ South Bedfordshire Local Plan Review – Adopted January 2004.

Other matters

9. The occupants of 13 Kingsbury Avenue have raised concerns over the proximity of the development to the end of their garden and the effect on their privacy and enjoyment of the space. However, no part of the proposed dwelling directly abuts or overlooks the garden. There is a reasonable amount of separation between the windows and doors of the dwelling and the garden. Any views into this space would be at an oblique angle and would give rise to no greater risk to privacy than the norm in a residential area where some overlooking of gardens is to be expected.
10. It is also not unusual for the private amenity space of two dwellings to share a common boundary and there is no reason to assume that levels of noise generated by these dwellings would be any greater in their gardens than what may already be the case. Therefore, I am satisfied there would be no material impact on privacy or levels of noise and disturbance resulting from the development. Any disturbance caused during construction would be temporary in nature and would not cause sufficient harm to outweigh my overall conclusions on the development.
11. There would be no habitable room windows on the side of the dwelling facing the gardens on 157 and 159 Luton Road. There would, therefore, be no undue impact on privacy of those residents, particularly in relation to the use of the garden space. The distance between the front of the dwelling and the garden of No 153 would also be sufficient to ensure there would not be any unacceptable overlooking into the garden of this property.
12. Any issues over security and risk of trespass would be private matters between the appellant and the relevant landowners and thus this issue has carried little weight in my decision.

Conditions

13. I have considered the suggested conditions from the Council in accordance with the guidance contained in the Planning Practice Guidance (PPG). Where necessary, I have made minor amendments to the suggested wording in the interests of clarity and precision. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty.
14. I have imposed a condition requiring the details of the materials to be used in the construction of the dwellings to be approved prior to development taking place in the interests of the character and appearance of the area. For the same reason, and to ensure adequate protection for trees, it is necessary to impose a condition requiring that all works to trees are carried out in accordance with the submitted arboricultural reports and specifications. I have combined the two suggested conditions relating to trees and amended the wording to remove superfluous detail. I have also imposed the suggested condition on approving the details of the provision of waste receptacles in the interests of the living conditions of future and nearby occupants.
15. I have not imposed the suggested condition requiring the approval of cycle parking facilities. This does not appear necessary for the development of two dwellings, particularly when both have private garages which are more likely to be used for the storage of bicycles than any separate external or internal

facility. Finally, I have not imposed the suggested condition requiring details of integral bird boxes to be provided prior to commencement of development. I have not been provided with sufficient evidence by the Council to demonstrate that this pre-commencement condition is necessary to make the development acceptable in planning terms.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: WPD-008-16-1 (Site Location and Layout), WPD-008-16-2 (Plans & Elevations), other than as required by condition 3.
- 3) No development shall take place until the details of the materials to be used for the external walls and roofs of the development hereby approved have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) Development shall be undertaken in accordance with the 'Tree Survey Report – Pre-Development' document dated April 2016 written by RGS Arboricultural Consultants and the 'Method Statement' received by the Council on 23 May 2016. All tree work and protection measures detailed in these documents shall be fully implemented prior to any work commencing on site. All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).
- 5) Prior to the first occupation of any dwelling hereby approved, a scheme for the provision and storage of waste receptacles for each dwelling shall be submitted to and agreed in writing by the local planning authority. The receptacles shall be provided before occupation takes place.