
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: 24th November 2016

Appeal Ref: APP/B0230/W/16/3156918

75 Ashburnham Road, Luton, Bedfordshire LU1 1JN

- 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 N Islam against the decision of Luton Council.
 - The application Ref 16/00429/FUL, dated 8 March 2016, was refused by notice dated 1 June 2016.
 - The development proposed was originally described as "change of use of house to 2 no bed flat units".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The declaration date and applicant's name on the original application form differed from that given on the Council's decision notice and appellant's appeal form. For the avoidance of any doubt, I contacted the main parties to get agreement on these facts and it is the agreed information that I have used in the heading above.

Main Issues

3. The main issues are:
 - (a) The effect of the development on the living conditions of future occupiers, with particular regard to internal living space, private amenity space, noise and disturbance;
 - (b) The effect of parking provision on the safety of road users, pedestrians and the efficient operation of the transport network, and;
 - (c) Whether a financial contribution is necessary to provide waste management facilities in the area.

Reasons

4. The appeal site is a two storey terraced dwelling located in a high density residential area. The development would result in the creation of two, two bedroomed flats. It is understood that a number of dwellings in the area have already been converted to flats.
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5. The Council has included reference to the Government's 'technical housing standards'¹ (THS) in its reason for refusal. However, the Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case, there is no such policy. Consequently, the national standards cannot be applied on a mandatory basis. Notwithstanding this, a core planning principle of the National Planning Policy Framework (the Framework) and the Local Plan is to ensure a good standard of living conditions for all existing and future occupants. The amount of internal living space provided is an important factor in determining whether a good standard of accommodation is achievable.
6. Although the removal of the chimney breasts and fireplaces would create a small amount of additional space, the bedrooms on the ground level flat would still be reduced from their current size as a result of the creation of the communal entrance. From the limited information provided on layout, I would conclude that the reduced space provided would give rise to unacceptably cramped conditions. This is particularly the case for the smaller of the two bedrooms. In particular, there would be little circulation space once necessary furniture and storage space had been provided. This is likely to lead to an unacceptably claustrophobic environment, to the detriment of the living conditions of future occupiers.
7. At first floor level, I am not convinced from the information provided that the use of the existing front bedroom as a lounge/kitchenette would provide sufficient space to adequately accommodate the number of people likely to be living in a two bedroom flat. The scale of the habitable space provided would be significantly constrained by the dual purpose of the room and the amount of associated furniture and appliances that would be required. This would create a confined and oppressive space that would result in an unacceptable standard of accommodation for future occupiers of the flat.
8. While not referred to in the Council's reasons for refusal, I have also noted the comments of the Environmental Protection officers with regard to the relationship between the first floor lounge/kitchenette and ground floor bedroom. I agree with their concern that this could give rise to an unacceptable level of noise and disturbance to the occupiers of the ground floor flat resulting from the high anticipated levels of activity associated with the lounge and kitchen areas. This also adds to my overall concern that the internal arrangements and overall level of space provided is not sufficient to accommodate the likely number of residents in two bedroomed flats.
9. In terms of private outdoor space, the officer report indicates that there would normally be an expectation of 50 square metres for two flats. There is some dispute between the main parties as to the size of the external amenity space, with the appellant suggesting it would amount to around 56 square metres of space and the Council stating it would be around 40 square metres. In addition to the size of the space given, the Council are also concerned that there is no indication of how the occupants in the first floor flat would access the garden space.
10. While it is not necessarily unusual for flats to be provided with a reduced level of outdoor space, the limited internal space provided means that it would be

¹ Technical housing standards – nationally described space standard – March 2015 (Department for Communities and Local Government).

important for there to be some functional private space available to both flats. While I note the appellant's comments about nearby recreational space, this does not help in the providing practical areas for drying clothes or occasional sitting out.

11. The garden area comprises a narrow, steep, terraced space which is accessed by steps. Irrespective of the measured space, the nature of the garden inevitably reduces its ability to provide functional usable shared amenity space for two flats. As no details have been provided about how the garden would be laid out or function, I have insufficient evidence to be satisfied that it is capable of providing an appropriate level of shared space for the future occupants of both flats.
12. I have given consideration to the fact that a number of other properties along Ashburnham Road have apparently been converted into flats. However, I have not been provided with any details of these. Thus, I cannot determine whether the individual circumstances of each case would represent a direct parallel to the proposal here, particularly in terms of the internal arrangement and configuration of the buildings, the number of bedrooms and the scale of internal and external space provided.
13. Therefore, I find that there would be insufficient space in some habitable rooms to create a satisfactory living environment for future occupants. In addition, the internal arrangements would give rise to unacceptable levels of noise and disturbance. There is also insufficient evidence before me to be satisfied that there would be an appropriate level of usable outdoor amenity space for the number of people likely to be living in the flats.
14. In this regard, the development would constitute an over-intensive use of the property that would materially harm the living conditions of future residents. Accordingly, there would be conflict with the requirements of saved Local Plan² (LP) policies LP1 and H2 which, amongst other things, seek to promote development that maximises the opportunity to improve the quality of life for residents and resists over-intensive development. It would also conflict with National Planning Policy Framework (the Framework) in terms of the core principle of achieving a good standard of amenity for all future occupants of a building. The Council's Decision Notice also referred to policy ENV9. However, this was not provided to me and thus I cannot conclude that the development would be contrary to this policy. This does not alter my conclusion that the development would conflict with the LP as a whole.

Parking and highway safety

15. I observed significant signs of existing parking stress in the area, with few on-street parking spaces available in the vicinity of the site at the time of my visit. This was in the early afternoon and it would be reasonable to assume that this pressure would increase into the evening and at weekends when people are not at work. However, I am conscious that the existing dwelling has the potential to generate some level of demand for on-street parking already. The development would increase the possible demand for parking to a small degree, but the difference between a three bed dwelling and two flats is unlikely to be significant in the wider context. The site is also in an accessible

² Luton Local Plan 2001-2011 – Adopted March 2006

location close to the town centre and it would be reasonable to assume that this would help to reduce the demand for car use and parking to some degree.

16. There are double yellow lines on the opposite side of the street to the appeal site which provide some level of control over the impact of high parking demand and helps maintain a safe highway and pedestrian environment. Furthermore, while the number of parked cars was significant, I saw no sign of dangerous or obstructive parking, either in terms of creating hazards for road users or for pedestrians. While I note the highway authority did raise concern regarding the proposal in terms of parking pressure, no specific evidence has been provided which demonstrates there are any undue safety or traffic problems associated with on-street parking in this area.
17. Therefore, I do not have sufficient evidence before me to conclude that the small increase in demand for on-street parking would create an unacceptable risk to highway or pedestrian safety, or that it would have any material impact on the efficient use of the highway network. As such, there would be no conflict with LP policy T3, which seeks to ensure development does not exacerbate road congestion or cause safety problems for pedestrians, cyclists and other road users.

Financial contribution

18. The Council have indicated that a financial contribution toward the provision of refuse containers is required to make the development acceptable. The types of financial payment set out in the Supplementary Planning Document³ (SPD) appear to be tariff-style contributions. The Planning Practice Guide (PPG) states that such contributions should not be sought from development of 10 units or less. This inevitably reduces the weight that I am able to give LP policy IMP1 in this case. Also, I have not been provided with any details of whether the number of planning obligations for this type of infrastructure has exceeded what is acceptable under Section 123(3) of the Community Infrastructure Regulations 2010.
19. In addition, the Council have provided limited evidence relating to the harm the absence of a contribution would have. The only impact they have identified is that residents would not have the necessary containers. However, there is no evidence that the only way to obtain such containers is through the use of planning obligations or that the contribution is necessary to make the development acceptable in planning terms. As a result of these findings, the lack of a planning obligation in this case does not weigh against the development.

Conclusion

20. Regardless of my findings on highway safety and the financial contribution, I find that there would be material harm to the living conditions of future occupants of the development contrary to the requirements of local and national planning policy. As a result, I conclude that the appeal should be dismissed.

S J Lee INSPECTOR

³ Luton Borough Council Planning Obligations Supplementary Planning Document (2007)