

Appeal Decision

Site visits made on 17 and 31 July 2017

by K Ford BSocSc (Hons) MSc MRTPI

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

Decision date: 18th August 2017

Appeal Ref: APP/B0230/W/17/3173759

22 Mendip Way, Luton LU3 3JL

- 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 and Mrs O Neil against the decision of Luton Council.
 - The application Ref 16/02270/FUL, dated 23 December 2016, was refused by notice dated 17 February 2017.
 - The development proposed is new detached 3 bed dwelling and vehicle crossover.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) The effect of the proposal on the character and appearance of the area.
 - b) Whether the proposal would provide acceptable living conditions for occupiers of 22 Mendip Way, with regards outdoor amenity space.

Reasons

Character and Appearance

3. No 22 Mendip Way is a 3 bedroom semi-detached house in an area characterised by 2 storey semi-detached properties. The house is located on a prominent corner plot at a point where the road bends and slopes slightly downwards towards Epping Way. Reflecting the curve in the road the appeal site and its neighbour stand slightly further back than other properties on the same side of the road and are set back from the footpath by a driveway. As the road rounds the bend a gap between the pairs of houses is visible beyond the enclosing garden fence that together with the setback of the houses from the road edge contribute to the spacious character and appearance of the area. The proposal is to sub divide the site into 2 plots and build an additional 2 storey, 3 bedroom property on garden land that forms part of the curtilage of No 22.
4. The height and architectural features of the proposed property would be broadly consistent with those of surrounding houses. However, whilst the building would step back and the roof step down, it would sit significantly nearer to the highway than the houses to each side and its bulk and mass would be clearly visible beyond the street boundary fence. As a result it would appear as an incongruous and obtrusive addition to the street scene that would detract from its spacious character and appearance. It is not considered that

soft landscaping would adequately ameliorate the impact. The development would therefore be contrary to policy LP1 of the Luton Local Plan (Plan) which supports development unless it fails to improve the physical environment and Policy ENV9 of the Plan which requires development to enhance the character and appearance of the area and respect existing building lines within the street scene. It would also be contrary to Policy H2 of the Plan which supports development where there is no unacceptable effect on the environment and would not lead to over intensive development.

Living Conditions

5. The rear amenity space of No 22 would be reduced significantly by the proposal and it is not disputed that it would as a result fall below the 90 sqm generally required by appendix 2 of Policy H2 of the Plan. Whilst appendix 2 states that consideration will be given to the provision of smaller enclosures having regard to the type and design of the house, no case has been made that this is applicable in this instance. No.22 is a 3 bedroom house and likely therefore to be occupied by a family. Notwithstanding the similarity in terms of overall depth of garden with that of the adjoining house, my observations at the site visit lead me to conclude that having accommodated the clothes dryer shown on the application plans it would not be adequate to comfortably provide the sitting out and play space a family would reasonably expect to enjoy. Any additions to the property would further exacerbate the shortfall.
6. The appellant suggests that there may be other gardens in the area of a similar size. However I have seen no details of these and I am unaware of their planning history. I cannot therefore make any direct comparison with the proposals for the garden of No.22 which I have considered on its own merits. Whilst the open area of a garden may be affected by the erection of structures and fences as permitted development, this is a right generally available to householders and not a justification for the grant of planning permission where, as in this case, the area would represent a harmful under provision.
7. The garden would not be visible from the street and I agree therefore that its reduced size would have no harmful effect on the character and appearance of the area. Nevertheless, for the reasons given above I conclude it would fail to provide acceptable living conditions for occupiers of No.22 in conflict with Policy LP1 of the Plan which supports development unless it fails to improve the quality of life of residents and appendix 2 of policy H2 as set out above.

Other matters

8. The house would be designed to be energy efficient and by increasing the density of development on the site would make efficient use of land within the built up area. However the National Planning Policy Framework makes clear that these should go hand in hand with high quality design and a good standard of amenity for all existing and future occupants, not at the expense of it as would be the case in this instance.

Conclusion

9. For the reasons outlined above, and having regard to all other matters raised, the appeal is dismissed.

K Ford INSPECTOR