

Appeal Decision

Site visit made on 7 February 2018

by J Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2018

Appeal Ref: APP/B0230/W/17/3180118

30 Bampton Road, Luton LU4 0DD.

- 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 Pravin Goutam against the decision of Luton Council.
 - The application Ref 17/00582/FUL, dated 23 March 2017, was refused by notice dated 29 June 2017.
 - The development proposed is described as "erection of 2bed two bungalows."
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of the application, the Council has adopted the Local Luton Plan 2011-2031 (the new Local Plan). The Council has advised that the policies of the Luton Local Plan 2001 – 2011 (the former Local Plan) referred to in the Council's decision notice have been replaced. I have therefore considered the proposed development against the relevant policies of the new Local Plan. The appellant has been afforded the opportunity to comment on the policies in the new Local Plan.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of neighbouring residential occupiers at 24A, 26A, 28, 30 and 32 Bampton Road and 1 – 6 Peace Mews, with particular reference to outlook, noise and disturbance; and
 - the living conditions of future residential occupiers of the proposed development, with particular reference to outlook.

Reasons

Character and appearance

4. Bampton Road is a residential street of a mixed character of predominantly detached two-storey houses and detached and semi-detached bungalows. Behind Bampton Road to the north and south, there are existing backland residential developments of bungalows dating from the 1980s onwards.

5. The appeal site at 30 Bampton Road includes a two-storey detached house on the site's frontage and a separate single-storey garage building adjacent to the western boundary. 32 Bampton Road lies beyond the western boundary, while 28 Bampton Road is situated beyond the eastern boundary. Both Nos 28 and 32 have shorter gardens than No 30. To the north of Nos 24 - 28, 2 bungalows at Nos 24A and 26A have been constructed within the former rear gardens of Nos 24 - 28, while the land to the rear of Nos 32 - 36 is currently unmaintained scrubland and trees. The northern end of the appeal site bounds residential development at 1 - 6 Peace Mews.
6. The proposed development would provide a pair of two-bedroom semi-detached bungalows within the rear garden of 30 Bampton Road close to the appeal site's boundaries. Vehicular access would be provided along the western boundary of the appeal site. The proposed development would maintain a smaller rear garden for No 30. While there are discrepancies on the plans submitted which make it difficult to establish how restricted the development would be, the most restricted plan (plan 1058-SA 00001) would not result in a development considerably different from the pattern of development evident in other former rear gardens along Bampton Road.
7. While Nos 24A and 26A are slightly more spaciouly set out, the 4 bungalows to the rear of Nos 38 - 44 are much more tightly spaced both with each other and the side boundaries of their site. The backland development at Nos 48 - 50 also fill much of their site, are small in footprint, and have limited rear gardens. Although these developments have come forward under different national and local planning policy, they now form part of the local character and appearance of the area. As a result, I do not consider that the proposed development would be overly intensive or cramped for its surroundings, or that it would not respect the character of the immediate setting.
8. The Council has referred to paragraphs 48 and 53 of the National Planning Policy Framework (the Framework). Paragraph 48 confirms that new housing on residential gardens should not be included in calculating windfall rates, and paragraph 53 addresses the formulation of policies to resist inappropriate development on residential gardens. The Council has not provided me with a policy in the new Local Plan which restricts the development of garden land. As such, I do not consider that paragraphs 48 and 53 of the Framework are directly relevant to this decision.
9. The appellant has referred to 3 allowed appeals¹ within Luton and 2 approved developments at Wingate Road and Turners Road South. The developments provided all differ from the proposed development, either in terms of the number of houses, their height and footprint, position in relation to the surrounding streetscene, shape of the site, or their relationship with neighbouring properties. As a result, I do not consider these decisions to be directly comparable with the appeal before me.
10. Concluding on this main issue, I consider that the proposed development would not cause harm to the character and appearance of the area. The proposed development would therefore comply with policies LLP1, LLP15 and LLP25 of the new Local Plan. Policy LLP1, amongst other things, requires development to respond to and enhance local character. Policy LLP15, amongst other things,

¹APP/B0230/W/17/3170235, decision issued 5 July 2017; APP/B0230/W/17/3172008, decision issued 22 June 2017; and APP/B0230/W/16/3161456 decision issued 14 March 2017.

states that new housing should not result in over-intensification of the site. Policy LLP25, amongst other things, requires the enhancement of the distinctiveness and character of the area by responding positively to the townscape, streetscene, site context, form, scale, height, and pattern.

Living conditions of neighbouring occupiers

11. The side wall of the proposed bungalow and the 4 proposed parking spaces would be located close to the appeal site's eastern boundary adjacent to the garage and short rear garden of 24A Bampton Road. Given the position of the proposed side wall of approximately 15.2 metres in depth to be sited approximately one metre from the shared boundary and the proposed height of the proposed bungalows at approximately 6.3 metres, the proposed bungalows would have an overly dominant and intrusive effect on the outlook from rear windows of No 24A. While I note that there is a single garage along part of the boundary at No 24A, this would not significantly diminish the negative effect of the proposed development on outlook for the occupiers of No 24A.
12. Furthermore, the proposed rear gardens would adjoin 1 – 6 Peace Mews, which has a short rear garden area and rear windows facing out towards the proposed development. Given the very limited distances between the proposed bungalows and the rear windows of Nos 1-6, the proposed development would also have an excessively prominent and damaging effect on the outlook of residential occupiers of Nos 1 – 6.
13. The Council has raised concerns about the proposed vehicular access and parking spaces and the potential effect on Nos 24A, 26A, 28, 30 and 32 Bampton Road in terms of noise and disturbance. The rear elevation of No 24A would be closer to the proposed parking spaces for the proposed development than other backland development along Bampton Road. Given the proximity of the parking spaces and the limited depth of the rear garden to No 24A, I consider that the proposed development would reduce the living conditions of occupiers of Nos 24A to an unacceptable extent in terms of noise and disturbance.
14. I consider that Nos 26A and 28 would be sufficiently distant from the vehicular access and proposed parking spaces to ensure that there would be no adverse effect. While Nos 28 and 30 would both have rear gardens directly adjoining the proposed parking spaces, I consider that the living conditions for occupiers of Nos 28 and 30 would not be harmed as their relatively long gardens would provide a sufficient buffer, unlike No 24A referred to above. With regard to the effect of the vehicular access on occupiers of Nos 30 and 32, I do not consider that the level of noise and disturbance from the use of the vehicular access by would be sufficiently high to cause harm to living conditions based on the likely traffic movements for 2 dwellings.
15. While I acknowledge that the appellant has proposed the planting of new trees to provide a buffer between the proposed parking spaces and the garage and garden of No 24A, I do not consider that this would overcome my concerns regarding noise and disturbance.
16. Concluding on this main issue, I consider that the proposed development would have a harmful effect on the living conditions of neighbouring residential occupiers at 24A Bampton Road and 1 – 6 Peace Mews, with particular reference to outlook, noise and disturbance. The proposed development would

therefore fail to accord with policy LLP25 of the new Local Plan, which, amongst other things, seeks to avoid backland development where it would give rise to adverse amenity and minimise noise, overlooking, and loss of privacy. The proposed development would also fail to comply with paragraph 17 of the Framework which requires new development to secure a good standard of amenity for all existing and future occupants of land or buildings.

Living conditions of future occupiers

17. Both the proposed bungalows would be located approximately 1.2 metres from the site's side boundaries. This would result in each of the proposed kitchens having very limited outlook of a fence. Furthermore, each of the proposed living rooms would be centrally located within each proposed bungalow and would have doors facing a narrow patio area of approximately 2.4 metres in width by approximately 4 metres in depth. This would result in the proposed living rooms having limited outlook, which would be unacceptable.
18. Concluding on this main issue, I consider that the proposed development would cause harm to the living conditions of future residential occupiers of the proposed flats, with particular reference to outlook. The proposed development would therefore fail to accord with policy LLP25 of the new Local Plan, which, amongst other things, seeks to avoid backland development where it would give rise to adverse amenity. The proposed development would also fail to comply with paragraph 17 of the Framework which requires new development to secure a good standard of amenity for all existing and future occupants of land or buildings.

Other Matters

19. The appellant has made reference to paragraphs 7, 14 and 49 of the Framework and housing applications being considered in the context of the presumption in favour of sustainable development. In this instance, I have not applied paragraph 14 of the Framework as the proposed development would not accord with the development plan as set out in the paragraphs above. Furthermore, to my knowledge, the development plan is not absent or silent and relevant policies are not out-of-date.
20. Although the proposed development would deliver additional housing and widen housing choice in an area close to services and facilities, provide sufficient car parking and internal space, offer work for the local construction industry, and would be in keeping with the character and appearance of the area, the detrimental effects of the proposed development on the living conditions of neighbouring and future occupiers outweigh these matters. Furthermore, the concerns I have expressed regarding the proposed development would not be successfully addressed by the use of planning conditions.

Conclusion

21. For the reasons given above, and having had regard to all other matters raised, I conclude that this appeal should be dismissed.

J Gilbert

INSPECTOR