
Appeal Decision

Site visit made on 3 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/B0230/W/19/3226716

82 Kirby Drive, Luton LU3 4AW

- 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 Daljit Singh Birring against the decision of Luton Council.
 - The application Ref 18/00363/FUL, dated 7 March 2018, was refused by notice dated 15 October 2018.
 - The development proposed is erection of single storey building to form one bed flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon the local housing stock, with particular regard to the mix of housing types;
 - The effect upon the living conditions of neighbouring occupiers, with particular regard to outlook and noise; and
 - The effect upon the living conditions of future occupiers.

Reasons

Character and appearance

3. Whilst the appeal site contains a two-storey building that accommodates a retail unit at ground floor and a residential flat above, its surroundings are generally characterised by two-storey detached dwellings positioned within relatively large individual plots. Properties are typically of modern appearance and generally constructed in brickwork with tiled roofs.
4. It is proposed that a single storey dwelling be constructed to the rear of the appeal site in an area currently used for private car parking. Whilst the dwelling's visual effect would be tempered as a result of being setback from Kirby Drive and being constructed at a mere single storey, it would still have a presence and influence how the site and its surroundings would be read and experienced.
5. I note that an existing single storey garage is currently in place at the site and would be demolished to allow a private garden area to be created for the

proposed dwelling. The garage however functions as, and appears as, an ancillary building. The proposal on the other hand involves the creation of a separate and distinct dwelling positioned within its own newly created plot. Indeed, I am not aware of any similarly laid out units of accommodation in the immediate locality. Considering the prevailing character of the area described above, the proposal would bring forward an uncharacteristically tight and cramped form of development that would appear incongruent in the context of its immediate and wider surroundings.

6. I accept that Policy LLP25 of the Luton Local Plan (November 2017) (the Local Plan) refers to optimising higher densities and that the National Planning Policy Framework (February 2019) (the Framework) states that planning decisions should promote an effective use of land in meeting the need for homes. It is however also apparent that Policy LLP25 requires development to enhance distinctiveness and character and that the Framework also requires development to be sympathetic to local character. I have found that the proposal would provide for a cramped and incongruent form of development, which should not, I consider, be justified on the basis of its efficient use of land.
7. For the above reasons the proposal would cause harm to the character and appearance of the area. The proposal conflicts with Policies LLP1, LLP15 and LLP25 of the Local Plan in so far as these policies require new development to enhance the distinctiveness and character of the area and to not result in over-intensification of the site.

Local Housing Stock

8. The Council has referred to its Strategic Housing Land Availability Assessment, which they state shows a significant over delivery of 1-bed housing units such that the proposal before me would not be considered to meet local housing needs. I also note that Policy LLP15 requires that development will achieve a mix of different housing sizes, types and tenures informed by the latest housing market assessments and local circumstances.
9. In this instance it is the case that only a single 1-bed unit of accommodation is proposed. Whilst it is apparent from the evidence before me that recent development activity in the Borough has primarily been concentrated on the provision of smaller properties, I do not consider that the proposal holds the potential to undermine the strategic objectives that exist. Indeed, the appellant has referred to an identified total housing need of 31,800 in the Luton Housing Market Area (taken as a whole) and Policy LLP15 refers to the provision of some 8,500 dwellings over the plan period. The suitability of the proposal should also be considered in the context of the Framework underlining the Government's objective of significantly boosting the supply of new homes.
10. For the above reasons, the proposal would not have an adverse effect upon the local housing stock, with particular regard to the mix of housing types, and would not therefore cause harm in this context. The proposal accords with Policies LLP1 and LLP15 of the Local Plan in so far as these policies seek to encourage growth and to ensure that the size, type and tenure provided reflects the identified housing need requirements of the area.
11. Local Plan Policy LLP16 refers to the provision of 20% affordable housing where minor housing developments bring forward more than 1,000 sq m of floor

space. This does not apply here, such that Policy LLP16 is of limited relevance to my considerations.

Living conditions of neighbouring occupiers

12. The proposed dwelling would be sited such that it would have a close relationship with surrounding residential properties. Indeed, the appeal site is abutted by neighbouring rear gardens to its southern and eastern sides. A single storey building is proposed that would be of hipped roof design.
13. Notwithstanding the proximity of neighbouring residential properties and garden areas, the single storey stature of the proposed building would guard against it appearing unduly prominent when viewed by neighbouring occupiers. It would not unduly affect the levels of outlook that are already available from neighbouring properties to the south and east and would avoid being visually intrusive in the context of its surroundings.
14. With respect to the potential for noise and disturbance to occur as a result of the proposed development, I accept that comings and goings would be associated with the occupation of a new dwelling. It should however be noted that the appeal site's surroundings are already typified by neighbouring residential properties sited relatively close to each other. The appellant has also correctly pointed out that comings and goings would be associated with how the site is presently used for the parking of cars. I do not consider that undue noise would be created by the proposal.
15. For the above reasons the proposal would not cause harm to the living conditions of neighbouring occupiers, with particular regard to outlook and noise. The proposal accords with Policy LLP25 of the Local Plan in so far as it requires that provision is made to minimise noise, overlooking and overshadowing/loss of light.

Living conditions of future occupiers

16. The proposed dwelling would be supported by a private garden space of approximately 18 sq m in size, which the main parties to this appeal agree would meet the relevant standard set out in the Local Plan. However, the extent of internal space proposed is approximately 37 sq m, which the Council considers would provide for a cramped living environment.
17. Whilst the nationally described space standard has been referred to in evidence, it is apparent that the Local Plan does not contain a policy specifically requiring such a standard to be imposed when development proposals are considered. I therefore attach limited weight to the relevant nationally described space standard here but note its relevance as a useful guide in such matters. I note here that the extent of floor space proposed narrowly falls short of the standard set out for a single storey, 1-bed property with a single bed space (albeit a double bed is depicted on the proposed floor plan before me).
18. The proposed internal layout depicts an open plan living/kitchen area in addition to a separate bedroom that would be served by an en-suite/shower room facility. Both of the proposed main rooms, I consider, appear generously sized so as to be capable of providing suitable internal living conditions for future occupiers. I am also content that acceptable levels light and outlook would be provided via the various openings that are proposed. The dwelling

would be set far enough away from the existing main building on-site (No 82) such that outlook from the proposed west-facing windows would not be unduly impeded or compromised.

19. It was also apparent, from inspection, that the east-facing elevation of No 82 (where it would face the proposed dwelling) contains only two window openings of relatively small size at first floor level. These would be set at an oblique angle to the west-facing windows that are proposed, and I am content that the privacy of future occupiers would not be unduly compromised. This is notwithstanding the proximity of this facing relationship.
20. I note that the Council has raised concern over potential noise nuisance from the hum of an existing sub-station compound that would sit alongside the dwelling. However, this concern has not been supported by technical evidence and no comments were made in this regard by the Council's Environmental Health Officer.
21. For the above reasons the proposal would not cause harm to the living conditions of neighbouring occupiers and would accord with Policy LLP25 of the Local Plan in so far as this policy requires that provision is made to minimise noise, overlooking and overshadowing/loss of light and to ensure access to storage and privacy.

Other Matters

22. It has come to my attention that the appellant, who occupies the first floor flat at the appeal site and runs the ground floor shop below, is registered disabled and that it has become increasingly difficult for him to access his existing living accommodation. I have had regard to the equalities implications and associated duties arising. However, whilst a ground floor property would be expected to be more straightforward to access when compared to the current first floor level accommodation, the specific difficulties currently experienced by the appellant have not been substantiated in the evidence before me.
23. In any event, it has not been demonstrated that it would be essential for the appellant to reside on site to run his business, nor that, should alternative accommodation be required, suitable provision locally would not be available. Whilst the appellant has referred to an appeal decision elsewhere where substantial weight was given to personal circumstances, I must consider the appeal before me upon its own individual merits.
24. I acknowledge that the proposal would deliver an additional housing unit and that the Framework reaffirms the Government's objective of significantly boosting the supply of homes and states that decisions should promote an effective use of land. I also acknowledge that the proposal would generate a small number of jobs during the construction period and that the proposed dwelling, noting the appellant's personal circumstances discussed above, would be sited in immediate proximity to the existing retail unit on-site. However, the contribution of only one dwelling would be modest and would not outweigh the significant harm identified to the character and appearance of the area. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

25. I have found no harm in relation to the effects upon the living conditions of neighbouring and future occupiers and upon the local housing stock. However, the proposal would result in significant harm being caused to the character and appearance of the area. That harm is the overriding consideration.

26. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR