



Appeal Decision

Site visit made on 13 May 2019

by J Alderman BA(Hons) MA MRICS

an Inspector appointed by the Secretary of State

Decision date: 14th August 2019

Appeal Ref: APP/B0230/W/18/3219562

54 St Ethelbert Avenue, Luton LU3 1QJ

- 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 K Khan against the decision of Luton Borough Council.
 - The application Ref 18/01567/FUL, dated 12 October 2018, was refused by notice dated 10 December 2018.
 - The development proposed is the construction of a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (1) the effect of the proposed development on the character and appearance of the area;
 - (2) the effect of the proposed development on the living conditions of surrounding occupants, with particular reference to outlook, overshadowing and loss of light;
 - (3) whether future occupiers of the proposed development would have an acceptable living environment having particular regard to private rear amenity space; and
 - (4) the effect of the proposed development on highway and pedestrian safety.

Reasons

Character and appearance

3. The appeal site is located in a residential area, comprising a mixture of terrace and semi-detached properties. It is positioned on the corner of St Ethelbert Avenue and St Lawrence Avenue, the latter being mainly characterised by two storey terraced properties.
4. The host dwelling fronts onto St Ethelbert Avenue and is a semi-detached property with a large single storey extension to the side and rear. This extension has the effect of reducing the size of the rear garden. The rear garden of the property is currently enclosed with a high fence and metal gates and there is a garage at the rear of it. It is proposed to divide the rear garden

to create a separate plot which would accommodate a two bedroom detached property, along with two parking spaces. The host dwelling would retain one parking space. The new dwelling would front onto St Lawrence Avenue and sit alongside 61 St Lawrence Avenue.

5. The construction of the proposed development in this location would be inconsistent with the general form of the area. Although it adopts the building line and materials of surrounding properties, as well as providing surveillance onto the street by removing the existing high fence, as a detached property it would not be in keeping with the mainly terraced properties in St Lawrence Avenue. Nor would it reflect the semi-detached properties in St Ethelbert Avenue.
6. Although the existing properties have had various extensions and alterations over the years, they generally retain a sense of their original character. The majority of properties are situated on fairly spacious plots with reasonably sized long gardens which contributes to a feeling of openness in the area and are reflective of the general neighbourhood.
7. The proposed development would be on a small plot which would make it feel much more restricted than its neighbours. It would not add to the quality of its surroundings or enhance its immediate environment. The proposed dwelling would appear cramped on the plot which would mean that it would lack harmony with its surroundings and would be out of keeping. As such it would have a detrimental effect on the character and appearance of the area.
8. It would therefore not accord with Policy LLP1 of the Luton Local Plan 2011-2031 adopted 2017 (Local Plan), which requires developments to preserve or improve the character and appearance of the area. It would fail to comply with Policy LLP15, which seeks to ensure that development does not result in over intensification. It also fails to comply with paragraphs 124 and 130 of the National Planning Policy Framework (the Framework). The Council in their decision reference paragraph 17 of the Framework, which is not directly relevant as it is concerned with the use of land within the plan making framework.

Living conditions of surrounding occupants

9. The Council are concerned that the proposed development would cause overshadowing and a loss of light for the host dwelling, 54 St Ethelbert Avenue as well as a reduction in outlook.
10. The proposed two storey dwelling would be positioned to the south of the rear elevation and rear garden of No.54 and would bring built development nearer to the host dwelling. The outlook from No.54 would be towards the two storey end gable of the proposed development and as such would create a more enclosed feel and would dominate and would be intrusive to the outlook of No. 54.
11. The existing extension to the host dwelling has already reduced the available garden area. The proposed development would reduce this further impacting negatively on the occupants' experience of openness and spaciousness when using the area.
12. The appellant has provided information that states that no shadow would fall on to no.54 after 1pm, however, there would still be overshadowing for at least

part of the day and given that the proposed development is to the south of No. 54 this would result in a further negative impact on the occupiers of No. 54.

13. The proposed development would be situated next to 61 St Ethelbert Avenue, replacing the existing garage which is the next to the boundary. As the proposed development is at two storey height it would create a more cramped feel and would reduce the feeling of space between the properties.
14. The proposed development would therefore, have a detrimental effect and cause harm to the living conditions of surrounding occupiers. As such it would be contrary to Policy LLP1 of the Local Plan, which requires development to comply with relevant planning policies. It would not accord with Policy LLP15 or Policy LLP25 of the Local Plan, the latter of which is concerned with ensuring that the effects of overlooking, overshadowing and loss of light are minimised. Finally it would not meet the requirements of the Framework in relation to design and amenity.

Living conditions for future residents

15. The proposed dimensions of the plot mean that the external space for the proposed dwelling would comprise two car parking spaces at the front of the property, a side entrance and a modest sized rear garden.
16. Appendix 6 of the Local Plan requires 45 m² of enclosed rear garden area for 1-2 bedroom units. Although the appellant's figure suggests that the Local Plan requirement would be met, it appears to include the side access which would not be usable garden area. Consequently, and having regard to the size and particular layout of the proposed dwelling, future occupiers would not have an acceptable living environment having particular regard to private rear amenity space. Although reference is made by the appellant to smaller garden areas being permitted elsewhere by the Council, no details of these other examples have been provided.
17. As such the proposed development would fail to comply with Local Plan policies LLP1 and LLP15 which are concerned, amongst other matters, with ensuring that new housing development does not lead to over intensification of a site. It also fails to accord with Local Plan Policy LLP25, Appendix 6 which sets out the requirements for external amenity space and with relevant paragraphs of the Framework.

Highway and Pedestrian Safety

18. The proposed dwelling would have two parking spaces, although one of these would be awkwardly located and it is unclear how easily accessible it would be for day to day use. No.54 would be left with one parking space and although it is unclear as to how many bedrooms this dwelling has, given its size it is reasonable to conclude that it has more than two.
19. The Council's parking standards as set out in Appendix 2 of the Local Plan state a maximum requirement of 2 spaces per dwelling for 2/3 bedroom dwellings and 3 spaces per 4+ bedroom dwellings, or lower depending on accessibility.
20. The Highway Authority has expressed concerns regarding the potential impact of the proposal on on-street parking and the subsequent highway and pedestrian safety issues that would be likely to arise from this.

21. There is limited off street parking and the road is fairly narrow and on the day of my visit there were reasonably high levels of parked cars with many straddling the pavement. Given the limited width of St Lawrence Avenue and the lack of off street parking for existing dwellings nearby, I consider that any additional vehicles parking on the street as a result of the proposal would be likely to have a detrimental effect on highway and pedestrian safety.
22. The proposal would thereby be contrary to the Local Plan Policy LLP31, which includes a requirement for developments to reduce highway safety risks and Policy LLP32, and its Appendix 2 which are concerned with parking provision.

Other Matters

23. I have considered whether the proposal would be consistent with the social, economic and environmental dimensions of sustainable development, as set out in paragraph 8 of the Framework. I have found that the proposed development would harm the character and appearance of the area, placing it in conflict with the environmental dimension of paragraph 8. In addition, it would harm the amenity of existing and future occupiers as well as being detrimental to highway and pedestrian safety. Whilst the development would add to the vitality of the local community and economy and add to the mix of housing type within the Borough, these benefits of the scheme do not outweigh the environmental and social harm that I have identified above. Furthermore, having considered all of the policies drawn to my attention the harm arising from the development leads me to conclude that there is conflict with the development plan as a whole and I find the scheme is not sustainable development.
24. In support of the appeal my attention has been drawn to a number of other developments which have been granted planning permission, which the appellant contends have similarities to the appeal site. I have given consideration to the information available on these cases, although full details were not provided to me. From my observations these developments are situated in a variety of locations with different property types, street scenes and parking arrangements. In a number of cases the plot sizes are larger, or the street is much less uniform, whilst in some cases the aspect of the development is different having a street frontage alongside the host dwelling.
25. The closest site geographically is located at 32 St Ethelbert Avenue (Ref: APP/B0230/A/13/2200818), which is similarly a corner plot. However, many of the issues were different in this case, particularly with reference to the detail in relation to parking and the lack of amenity space was not considered as an issue.
26. This case along with the majority of the other cases also pre-date the adoption of the current Local Plan and were consequently approved in a different policy context. I have therefore attributed limited weight to them in coming to my decision.
27. In any event I must determine the proposal before me on its own merits.

Conclusion

28. For the above reasons, and having regard to all matters raised, I conclude that the proposal would conflict with the development plan as a whole, and so the appeal should be dismissed.

J Alderman

INSPECTOR