



Appeal Decision

Site visit made on 20 August 2019

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2019

Appeal Ref: APP/B0230/W/19/3230658
43 Oakley Road, Luton LU4 9PT

- 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 Derek and Anthony Healy against the decision of Luton Borough Council.
 - The application Ref 19/00197/FUL, dated 14 February 2019, was refused by notice dated 24 April 2019.
 - The development proposed is described as 'erection of four beds detached bungalow at rear of No 43 Oakley Road'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site forms part of the rear garden serving No 43 Oakley Road. The host property is a large detached bungalow occupying spacious grounds containing a number of mature trees. The immediate area is characterised by similar substantial detached properties set back from the road within large verdant plots. On the opposite side of Oakley Road there are smaller, more densely developed semi-detached properties and I noted during my site visit that there has been a development similar to the one proposed at No 35 Oakley Road. Nevertheless, this is the exception rather than the norm and overall the area has a very spacious feel with a strong road frontage.
4. I acknowledge the conclusions of the Inspector in the recently allowed appeal decision¹ in 2018 with regards to No 49 Oakley Road and the previously dismissed appeal decision² in 2011 which relates to the site which is the subject of this appeal. Whilst I would concur with the Inspector's comments with regards to the different spatial characteristics of the two sites, one being that No 49 Oakley Road that is bounded by previously approved back land development and the other, No 43 Oakley Road, being entirely flanked by back gardens, each case must be determined on its own merits. Nonetheless, the

¹ Appeal Ref: APP/B0230/W/18/3195468

² Appeal Ref: APP/B0230/A/10/2136542

contrasting characteristics mean that the character and appearance of each site is entirely different and accordingly, the previous appeal decisions have not altered my findings.

5. The proposal would see the erection of a detached chalet bungalow to the rear of No 43 Oakley Road which would share an existing access onto Oakley Road, albeit separated into two private driveways serving the individual properties. The Council does not object to the appearance of the dwelling and the main parties agree that the development would allow sufficient separation distances between neighbouring properties to ensure there would be no overlooking or reduction in living conditions for the occupiers of surrounding properties. I agree with such views.
6. The appeal site is in a section of the road where the plots are particularly large, with wide frontages and very private, tree lined gardens. There is an open pattern of development which derives from the spacious plots and low density of development. I note the appellants' reference to Paragraph 118 and 123 of the Framework which together promote higher density development and the development of underutilised land particularly where housing land supply is constrained or there is a shortage of land to meet identified housing need. I have not been provided with any evidence to suggest that housing land supply is particularly constrained within this location or that there is a shortage of land to meet an identified housing need. I do not agree that the appeal site is underutilised: it is a garden area and thereby performs a function as private amenity space for the existing and future occupiers of the host property, as well as contributing positively to the overall spacious character of the area.
7. Policies LLP1, LLP15 and LLP25 of the Luton Local Plan (LP) seek, amongst other things, to promote development that achieves high quality developments through good design which responds to and enhances local character. These policies acknowledge the importance given to layout considerations that should be respectful of the urban grain. Although the appellants suggest that the appeal site is an open gap that is not visible from public vantage points nor contributes to any form of public open space, I consider that it nevertheless performs an important function in the context of maintaining the overall spacious quality of the immediate area.
8. The appellants make reference to criterion c) of Paragraph 127 of the Framework which suggests that policies and decisions should not discourage innovation or change (such as increased densities). The wider context of Paragraph 127, amongst other things, requires policies and decisions to be sympathetic to the character of an area, to add to the overall quality of an area and to maintain a strong sense of place. The proposal does not succeed in any of these elements and significant harm would be caused to the character and appearance of the area.
9. The proposal would not represent the development of an underutilised open gap as the appellants suggest. It would see the subdivision of the host plot and the erection of a detached bungalow which would materially alter the spacious pattern of development. It would lead to the introduction of two dwellings set within uncharacteristically small plots at odds with the character and appearance of the immediate locality.
10. For the above reasons, I conclude that the proposal would cause significant harm to the prevailing character and appearance of the area in direct conflict

with the design requirements of Policies LLP1, LLP15 and LLP25 of the LP and the Framework.

Other Matters

11. I concur with the appellants that there are some benefits to be associated with the proposed development acknowledging that it would boost the supply of housing in the area and lead to some construction employment. However, the former would be a limited benefit in the context of one dwelling being provided and any construction employment would be short lived. I acknowledge that the site is located within an accessible location with good access to services and facilities. I also accept the appellants' point that as a small development is proposed, the dwelling could be delivered quickly on this windfall site. Nevertheless, the identified benefits associated with the delivery of a single house do not outweigh the significant harm that would be caused to the character and appearance of the area which is a matter of overriding concern.

Conclusion

12. For the reasons outlined above, and taking into account all other matters raised, I conclude the appeal should be dismissed.

J. Hunter

INSPECTOR