



Appeal Decision

Site visit made on 10 September 2019

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2019

Appeal Ref: APP/B0230/W/19/3232408

Land adjacent to 68 Hawthorn Avenue, Luton LU2 8AN

- 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 Marion Mason against the decision of Luton Borough Council.
 - The application Ref 19/00315/FUL, dated 4 March 2019, was refused by notice dated 1 May 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for a new dwelling at land adjacent to 68 Hawthorn Avenue, Luton LU2 8AN, in accordance with the terms of application ref. no. 19/00315/FUL, dated 4 March 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and drawings: PO1 Rev. A (dated June 2018); PO2 Rev. A (dated June 2018).
 - 3) No construction above slab level shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including boundary treatments, has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved samples.
 - 4) The development shall not be occupied until space has been provided within the site for the parking of a car in accordance with details that have been submitted on plan/drawing number PO1 Rev. A (dated June 2018).

Procedural Matters

2. The applicant's name was set out in the original planning application form as 'MASON'. However, it has been clarified with the appellant, that the applicant and appellant's correct name is Mrs Marion Mason, which I have used in the banner heading above.
3. The address from the original planning application form appears as '68 Land adjacent to 68 Hawthorn Avenue...'. However, on the Council's decision notice the address is described as 'Land adjacent to 68 Hawthorn Avenue', which is

more reflective of the appeal site location, therefore I have used this in the banner heading above.

4. The plans/drawings listed in the Council's reason for refusal on the decision notice as those upon which it determined the application are Nos P01, P02 and P03. However, the plans/drawings supplied to me are Nos. PO1 Rev. A (dated June 2018); PO2 Rev. A (dated June 2018) and PO1 Rev. A (dated Sept 2017). I have sought clarification from the Council in this regard, however, a response has not been received. As the plans before me match the description of the proposed development and appear to relate to the development described in the planning officer's report, I have determined the appeal on the basis of the plans/drawings before me.

Main Issues

5. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area; and,
 - the living conditions of future occupiers with particular reference to daylight and ventilation.

Reasons

Character and appearance

6. The appeal site constitutes the eastern side of the front, side and rear garden (including a small outbuilding) of an end of terrace dwelling on Hawthorn Avenue. To the east the site adjoins a gated vehicular access road appearing to provide access to the rear of properties fronting Stapleford Road. Properties nearby include short terraces of dwellings set back various distances, detached houses and bungalows, and outbuildings, varying in architectural design and character, resulting in a considerable mix of building shapes, sizes and styles nearby.
7. While the proposed development would result in a dwelling with a tapered width, the degree of tapering would appear shallow from Hawthorn Avenue, Stapleford Road and surrounding residential properties, given the depth of the proposed dwelling. The front of the dwelling would appear narrower than those it adjoins, but the arrangement of the front door and the windows, the roof shape, and matching materials, would provide a degree of rhythm that would harmonise with the adjoining terrace, resulting in an acceptable visual appearance. The cross gable type roof form to the rear would be flat for a small section but due to the design of the roof, the orientation of the appeal site and public highways, and the position of surrounding dwellings, its visibility would be limited. The overall roof form would taper satisfactorily into the existing dwelling.
8. Although the building would appear almost flush to the eastern boundary, the existing private gated access road results in there being a considerable gap between the proposed dwelling and the neighbouring property to the east, helping relieve any appearance of being either unduly narrow or cramped. Overall, as a consequence of the design and form of the proposed dwelling, its orientation, and the variety of architectural styles, shapes and building forms nearby, the development would not appear incongruous, and would preserve

and appear in keeping with the character and appearance of the surrounding area.

9. Therefore, for the reasons set out above the proposed development would not be harmful to, and would preserve and be in keeping with, the character and appearance of the area. Accordingly, it would not conflict with Policies LLP1 and LLP25 of the Luton Local Plan (November 2017) (the Local Plan). These policies amongst other things expect development to be of a high quality design that preserves or enhances the character of an area by responding positively to the site and building context, and to optimise densities. I also consider the proposed development to be compliant with paragraphs 70, 122 (d) and 127 of the National Planning Policy Framework (2019) as it would optimise the use of the land in a manner that maintains the character of the area.
10. The Council has made various references to similarities with a previous proposal at the appeal site which it is understood was not approved. Whilst I have been provided with what I understand to be the previous proposal by the appellant, I have considered this appeal proposal on its own merits.

Living conditions – Daylight and ventilation

11. The Council's reason for refusal cites the proposed development as being likely to result in poor living conditions for future occupants, with the planning officer's report confirming the concern relates to the distance of the proposed kitchen space from the patio doors (around 5 – 8 metres). This distance and the layout give the Council concerns it would cause poor levels of light and ventilation to future occupants.
12. The appellant has offered a side window although the Council has not requested a planning condition to secure it. Even without the suggested side window I am satisfied that given the distance and size of the proposed patio door and its outlook, it would provide an adequate level of light to the main living area/kitchen. To address the Council's concern over ventilation the appellant has suggested a standard cooker hood linked to an external outlet. The Council has not offered any further evidence to suggest ventilation would be unsatisfactory and has not requested a planning condition be imposed in the event the appeal is allowed. I am satisfied that adequate ventilation can be provided, but as this would be dealt with by the building control process, it is not necessary to impose a planning condition in respect of ventilation.
13. For the reasons above, the proposed development would not result in harm to the living conditions of future occupiers of the new dwelling in respect of daylight or ventilation. Therefore, the proposed development would not conflict with paragraph 127 of the Framework which requires planning decisions should create places that promote health and well-being with a high standard of amenity for future users.

Other Matters

14. The development would result in the host dwelling and the new dwelling each having a single parking space which is within the levels set out in Appendix 2 of the Local Plan (up to two spaces) referred to by Policy LLP32 of the Plan. I note the Highway Authority expressed a concern about the principle of increased demand for on-street parking, but I have seen no evidence to

demonstrate why it would be unacceptable. While my visit can only represent a brief snapshot of the normal conditions, I noted a good amount of unrestricted on-street parking available in the area with plenty of street space free, with many dwellings having private driveway parking. Even if vehicles generated by occupants of either the proposed or host dwelling had to park on-street, I am satisfied they could do so without causing harm to highway safety or the convenience of other users and residents. Therefore, the proposed development accords with Policy LLP31 and LLP32 of the Local Plan.

Conditions

15. As well as the standard condition specifying the time limits for commencement of development, a condition requiring compliance with the approved plans is necessary to provide certainty (condition no. 2). In condition no. 2, I have not included plan/drawing No PO1 Rev. A (dated Sept 2017) which was submitted with the appeal, as this merely duplicates some of the details already shown on plan/drawing no. PO2 Rev. A (dated June 2018) and is therefore not necessary. In the interest of visual amenity, I attach a condition in relation to external materials and boundary treatments. In the interests of ensuring the implementation of the proposed off-street car parking, it is necessary to impose a condition requiring the provision of a parking space in accordance with the approved plans.
16. The Council requested a condition be imposed in respect of a landscaping scheme, to ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. However, given the limited size and visibility of the of the front facing amenity area I do not consider this to be necessary.

Conclusion

17. For the reasons set out above, and having regard to all the matters raised, I conclude that the appeal should be allowed, and planning permission be granted.

Dan Szymanski

INSPECTOR