



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: 30th September 2019

Appeal Ref: APP/B0230/W/19/3232828

Rear of 308 - 310 Sundon Park Road, Luton, LU3 3AR

- 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 T. Akhtar against the decision of Luton Borough Council.
 - The application Ref: 19/00341/FUL dated 15 March 2019, was refused by notice dated 28 May 2019.
 - The development proposed is extension of the existing annex and conversion of the existing garage to form a new, two-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At my site visit some work had taken place on the appeal site, including fencing erected on the western boundary of the appeal site along a similar alignment to the proposed new dwelling boundary. The front of the garage/annexe was blocked-in, and a door installed. Therefore, the appeal site appeared different to the arrangement on the submitted plan/drawing 488-05 'EXISTING'. However, there were no window openings, as are shown on plan/drawing 488-15 'PROPOSAL ELEVATIONS'. I am treating the development as seen on site.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area;
 - the living conditions of the occupiers of Nos. 308 and 310 Sundon Park Road and future occupiers of the proposed new dwelling with particular reference to amenity space provision;
 - the living conditions of the future occupiers of the proposed new dwelling with particular reference to daylight; and,
 - highway safety and the convenience of highway users.

Reasons

Character and appearance

4. The appeal site forms the back part of the rear gardens/amenity areas No. 308 and 310 Sundon Park Road (No. 308 and 310) which are a pair of gable roof

- semi-detached dwellings of a style, appearance and on plots typical of many in the surrounding residential area. No. 308 has a garage/annexe and No. 310 a brick outbuilding, proposed to be fenced off, linked together and altered to create a single storey two bedroom dwelling that fronts onto Ashwell Avenue.
5. Like the existing garage/annexe to No. 308 the new dwelling would front onto Ashwell Avenue facing an existing parking area. There are a couple of other garages nearby positioned facing a street perpendicular to the host dwelling, typically appearing as modest ancillary garage buildings. The front of the appeal site is in a prominent position fronting the highway, sloping up slightly up away from Ashwell Road, set back from a wide verge (accommodating two kiosk/substation type structures) to the west, and there is a small substation adjoining its eastern boundary.
 6. Linking the two existing buildings would result in a larger, bulkier and more prominent building of a noticeably unusual form, because of the uncharacteristic angled element on the eastern elevation and an irregular three-stepped western elevation. The unusual shapes would be prominent above the fence line, visible from the highway and some neighbouring properties. The dwelling would appear as an isolated incongruously shaped built form unlike other dwellings nearby. The size and location of the windows on the front elevation, and the rooflights set well above the flat roof line, would set it further apart and exacerbate its overall incongruence.
 7. For the reasons set out above the proposed dwelling would appear out of keeping with, and harmful to the character and appearance of the area. It would be contrary to Policies LLP1 and LLP25 of the Luton Local Plan (November 2017) (the Local Plan). These policies 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. It would also be contrary to paragraph 127 of the National Planning Policy Framework (2019) (the Framework), as it would not be sympathetic to local character. The appellant advocates the development meets attributes and clauses of Policies LLP1 and LLP25, but for the reasons above it does not meet clause i. of LLP25, or clause B. of LLP1, and results in considerable harm.
 8. Whilst the proposed development would result in markedly smaller plots than those of many dwellings, visibility of this would be largely limited given the boundary fencing. That element of the proposal would not result in harm to the character and appearance of the area.

Living conditions –amenity space provision

9. The proposals would result in Nos. 308 and 310 having their rear garden/amenity areas reduced to a depth of around 6.5 metres, and areas of around 45 square metres (sqm) and 53 sqm, respectively. Although these would be below the 90 sqm guideline in Appendix 6 of the Local Plan, the resultant size and shape would provide useable and reasonably pleasant areas for activities such as outdoor games, drying clothes, landscaping/gardening opportunities, outdoor seating, etc. Furthermore, both properties would retain good sized front garden areas, with a side return (No. 308) and garage (No. 310) that provide further space and storage. Therefore on-balance the proposals would not result in harmful living conditions to the occupants of Nos. 308 and 310.

10. For two-bedroom dwellings Appendix 6 of the Local Plan suggests an external amenity space of not less than 45 sqm. The proposed development is for a two-bedroom (effectively) detached dwelling/house, not a 'flat', as advocated by the appellant. The new dwelling would have a narrow strip of amenity area along a flank elevation of approximately 26 sqm. The size and shape would not result in a pleasant or particularly useable area for activities such as drying clothes, landscaping/gardening opportunities, outdoor seating, etc. The shape and size of the amenity area would result in unacceptably harmful living conditions for future occupiers. My conclusion is based on the bin and cycle storage on the submitted plans being secured, although as it is outside the application site, securing this is not certain.
11. Therefore, for the reasons set out above the proposed new dwelling would 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. The proposed development would also be contrary to Policy LLP25 which seeks to secure outdoor space in accordance with standards set out in Appendix 6 of the Local Plan.

Living conditions – daylight

12. The Council's third reason for refusal refers to the layout of the new dwelling resulting in a poor living environment, with the Council's report referring to layout and lack of light into bedrooms, although no further evidence is offered. The two-bedrooms, bathroom and kitchen/living area, appears of an acceptable layout and at around 63 square metres, is above the *Technical housing standards – nationally described space standard* (2015) referenced by the appellant. The appellant confirms the external doors to the bedrooms could be glazed. This could be secured by planning condition and would provide adequate lighting. Further natural lighting would be provided by roof lights and windows in the main living area, and roof lights in the hall and bathroom.
13. Based on the evidence before me, the proposed development would not result in harm to the living conditions of future occupiers of the new dwelling in respect of daylight. Therefore, in this regard the 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.

Highway safety and convenience

14. The Council has expressed concern at the parking and storage area being outside the application site, so may not be secured by any planning permission. The appellant has advised the land is utilised under an existing licence with the Highway Authority, but I have not seen further details. Policies LLP31 and LLP32 of the Local Plan seek to ensure sufficient parking within but not exceeding the standards set out in Appendix 2 of the Local Plan (up to two spaces), to avoid adverse effects upon highway safety and convenience.
15. While my visit can only represent a brief snapshot of normal conditions, I noted a good amount of unrestricted on-street parking available in the area, with plenty of street space free. Most houses in the area have private driveways that provide parking spaces, with many appearing capable of accommodating two or more vehicles. If future occupants did have to park on-street I am satisfied they could do so without harm to highway safety or the convenience

of other users and residents. Furthermore, I have been offered no evidence to the contrary by the Council.

16. For the reasons above, the proposed development would not result in harm to highway safety or the convenience of users having regard to the provisions of Policies LLP31 and LLP32 of the Local Plan. These amongst other things, require that adverse effects upon highway safety and convenience of nearby residents and users is avoided.

Other Matters

17. Third party concerns have been raised in respect of matters including access by the emergency services, privacy, dust during construction, and the position of the proposed dwelling forming a property boundary. However, in-light of my findings in respect of the main matters above, I have not pursued these further.
18. The appellant has referred to a development at No. 66 Runfold Avenue (Ref: 19/00106/FUL) citing amenity space of around 43.9 sqm for a new dwelling. I have not been provided with the full details and circumstances of that case. However, the size of the amenity space is far greater than proposed for this new dwelling. Therefore, it appears that decision is not directly comparable to the proposed new dwelling in the appeal scheme before me.
19. The appellant has referred to the Council's Strategic Housing Land Availability Assessment (December 2018) and provided an extract from a report showing an under-delivery of two bedroom dwellings up to 2017/18. I acknowledge the implied under-delivery, although in itself this doesn't demonstrate circumstances that would trigger the 'tilted balance' in accordance with the provisions of paragraph 11 of the Framework.
20. Even if I were to apply the tilted balance, the proposed development would result in the provision of a new dwelling re-using some existing buildings in what can be considered a sustainable location. There would be a small temporary economic benefit resulting from construction, and once occupied a small sustained benefit to the local economy. There would be some small benefit from supporting strong, vibrant and healthy communities through the supply of a single dwelling. However, the adverse impacts of granting permission in respect of harm to character and appearance and living conditions, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
21. The appellant suggests he is unhappy with the Council's handling and consideration of the application. Should the appellant wish to pursue this matter, then he would need to do so with the Council.

Conclusion

22. The proposed development would result in significant harm to the character and appearance of the area and to the living conditions of future occupants of the new dwelling. There are no considerations advanced which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR