
Appeal Decision

Site visit made on 25 September 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2019

Appeal Ref: APP/B0230/W/19/3232229
85 Stanmore Crescent, Luton LU3 2RJ

- 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 Ms Denise Quinn against the decision of Borough of Luton.
 - The application Ref 18/01557/FUL, dated 4 October 2018, was refused by notice dated 5 February 2019.
 - The development proposed is a new dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Despite the site address set out on the Application Form, I have taken the address in the banner heading above from the Appeal Form, as this better reflects the location of the scheme before me and is consistent with the submitted location plan. Therefore, no party would be prejudiced or caused any injustice by me taking this course of action.

Main Issues

3. The main issues are:-
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupiers of 85 and 87 Stanmore Crescent, with regard to privacy and outlook;
 - Whether the proposed developments would provide suitable living conditions for future occupants, with regard to privacy; and
 - The effect of the proposed development on highway and pedestrian safety.

Reasons

Character and appearance

4. The appeal site is situated within the rear garden of 85 Stanmore Crescent. Whilst the dwellings in the locality vary in size, shape and design, the layout within Stanmore Crescent is coherent. Dwellings are arranged parallel with the street, incorporating a frontage, and their gardens adjoin those of the dwellings

- in Marsh Road to the south. Built form beyond the frontage primarily takes the form of ancillary structures or extensions to dwellings. Taken together these features positively contribute to the character and appearance of the area.
5. The proposed dwelling would face towards an existing access route which leads to Marsh Road and Limbury Road. The proposed dwelling would replace a garage sited centrally within the site, which is low in scale and is ancillary to No 85. Given the scale of the proposed dwelling, neighbouring dwellings and planting within the vicinity of the site would be likely to intervene in views from surrounding streets. Where the proposed dwelling would be likely to be visible from the public realm it would be from glimpse views. I also appreciate that the proposed dwelling would be built to a high standard of design and environmental performance using a palette of carefully considered facing materials. The proposal would therefore have a neutral effect on the appearance of the surrounding area.
 6. I recognise that the site may not have originally been part of the curtilage of No 85. However, it is clearly distinguishable from other land due to its enclosure within the garden of No 85. The proximity of the proposed dwelling with the street frontage of Stanmore Crescent, in a position behind other dwellings, would jar with the coherent grain of frontage residential development described above. The proposal would reduce the effect of the separation between existing single depth development in Stanmore Crescent and Marsh Road and would therefore have a significantly detrimental effect on the character of the area.
 7. For the reasons outlined above, despite my favourable consideration of the effect of the development on the appearance of the area, I conclude that the proposed development would have an unacceptably harmful effect on the character of the area. Hence, the proposal would not accord with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 (Adopted November 2017) (LLP). Together these policies require that provision should be made to enhance the distinctiveness and character of the area by responding positively to, amongst other things, the townscape, street scene, site and building context; and by providing continuity of built form. The proposal would also conflict with paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) which, amongst other things, require that developments take the opportunities available for improving the character and quality of an area, are visually attractive as a result of good layout and maintain a strong sense of place.

Living conditions of occupiers of 85 and 87 Stanmore Crescent

8. Despite the inclusion of rooflights within the proposed dwelling, to serve accommodation at first floor, the other windows within the front façade and roof slope of the dwelling would be likely to result in overlooking of the rear garden of No 87. The proposed dwelling would incorporate a low eaves height so would be lower than adjacent properties. Nonetheless, it would still appear as a stark and dominant building and create an enclosing effect when viewed from the rear garden of No 87 due to its close proximity with the rear boundary of that property. There are fences and some established planting present to the boundary with No 87, but these would not be sufficient to entirely screen the harmful effects of the development. The planting could also not be relied upon in perpetuity.

9. Notwithstanding the above, given the siting and orientation of the proposed dwelling and position of its windows, it would not have the same harmful effects upon the occupants of No 85.
10. I appreciate that there may have been other recent developments in the Borough that incorporate similar relationships between properties. However, I have not been provided with the details of any comparable schemes. In any event, I have reached my own conclusion on the appeal proposal based on its individual merits.
11. For the reasons outlined above, despite my favourable consideration in relation to its effect on No 85, I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupants of No 87. Hence, the proposal would not accord with Policy LLP25 of the LLP, which requires that provision should be made to avoid backland development where it would give rise to adverse amenity; and deliver new housing that minimises overlooking and overshadowing/loss of light. Furthermore, the proposal would also not accord with Policy LLP1 of the LLP, in this regard, as the policy requires that planning permission will be granted where applications accord with local plan policies. The harms identified would also bring the proposal into conflict with paragraph 127 of the Framework, which promotes a high standard of amenity for existing and future users.

Living conditions of occupants of the proposed dwelling

12. The proposed dwelling would adjoin neighbouring properties in Stanmore Crescent and Marsh Road, in particular its garden area would be to the rear of 85 Stanmore Crescent. Whilst the garden of the proposed dwelling would be overlooked, the proximity of the garden with neighbouring properties would not be significantly different from other properties to the rear of one another in the locality. Similarly, as the proposed dwelling would only incorporate one roof window in the rear roof slope, the occupants of the proposed dwelling would be unlikely to experience reduced privacy due to overlooking toward the proposed dwelling from neighbouring properties.
13. For the above reasons, I conclude that the proposal would not have a significant effect on the living conditions of future occupants of the proposed dwelling. Hence, the proposal would accord with the aims of Policies LLP25 and LLP1 of the LLP and paragraph 127 of the Framework, in this regard.
14. I have not found against Policy LLP15 of the LLP, as I have not seen anything in the evidence before me to suggest that the proposal would lead to the loss of a use for which there is a recognised local need or community benefit; and the appeal site is not located within the Luton Town Centre, or a district or neighbourhood centre.

Highway and pedestrian safety

15. There are two existing vehicular accesses serving the appeal site, the first of which is taken between 136 and 138 Marsh Road. The second is taken from Limbury Road and abuts the rear boundary of properties in Marsh Road and the side boundary of 2 Limbury Road. The large part of the access is finished in block pavements, but it is unmade alongside 2 Limbury Road.
16. I recognise that the existing access to Limbury Road requires some upgrade and improvement, but the accesses currently serve the garage within the site.

Moreover, there is nothing before me to suggest that access is restricted, so they could be used on a frequent basis by the occupants of No 85. However, the proposal would still be likely to lead to the permanent intensification of the use of the access by occupants of an independent dwelling and its associated traffic.

17. Nonetheless, given that the proposal is for a 2-bedroom dwelling, any associated increase in traffic would be unlikely to be significant and the proposal includes arrangements for service access and the presentation of refuse bins to Stanmore Crescent. Furthermore, given the speed that vehicles would be likely to be travelling using the accesses, the safety of pedestrians and other users of the accesses would not be unlikely to be significantly affected by the proposed development.
18. For the above reasons, I conclude that the proposed development would not have a significant effect on highway and pedestrian safety. Hence, the proposal would accord with the aims of Policy LLP31 of the LLP which, amongst other things, requires that proposed developments reduce the safety risk to motor vehicles, non-motorised and vulnerable users. As the proposal would accord with this policy it would also not offend Policy LLP1 of the LLP, in this regard.
19. I have not found against Policy LLP25 of the LLP, in this regard, as this policy does not refer to highway or pedestrian safety.

Other Matters

20. I appreciate that the Council did not find against the proposal in respect of the size of the garden for 85 Stanmore Crescent or the proposed dwelling; or the arrangements for parking. However, the absence of harm in all these respects is of neutral weight.
21. I recognise that facilities and services within Luton would be accessible from the proposed dwelling on foot and it could be said to make more efficient use of the site by accommodating a small dwelling that could contribute to the housing demand in the area. However, Paragraphs 117 and 122 of the Framework are clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places. Nonetheless, the proposal would provide only one dwelling, so the contribution to the location and supply of housing locally would carry only limited weight.
22. I am referred to a decision in relation to land at the rear of 136 Marsh Road¹, adjacent to the appeal site. However, I am not aware of the circumstances of that particular situation. In any event, I have reached my own conclusion on the appeal proposal based on its individual merits.
23. None of the other matters raised alter or outweigh my conclusion on the main issues.

Conclusion

24. Whilst I have not found harm in relation to the living conditions for occupants of the proposed development and highway and pedestrian safety, I have identified unacceptable harm to the character of the area and the living

¹ Application Reference 16/01114/FUL

conditions of the occupants of 87 Stanmore Crescent. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR