
Appeal Decision

Site visit made on 17 December 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2020

Appeal Ref: APP/B0230/W/19/3238901

Land to the rear of 13 & 15 Fallowfield, Luton LU3 1UL

- 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 Mr Joe Charles (Gill Hudson Homes Ltd) against the decision of Luton Borough Council.
 - The application Ref: 19/00699/FUL, dated 20 May 2019, was refused by notice dated 6 September 2019.
 - The development proposed is the erection of 2 x 3 bed dwellings with associated parking and amenities.
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Decision

1. The appeal is dismissed

Main Issues

2. The main issues are:
 - the effect of the development upon the living conditions of the occupiers of neighbouring properties, with particular regard to privacy;
 - whether suitable living conditions can be secured for the future occupiers of the development; and
 - the effect of the development upon the character and appearance of the surrounding area.

Reasons

Privacy

3. The proposal consists of two semi-detached dwellings located within a residential area to the rear of 13 and 15 Fallowfield. These are also semi-detached dwellings, which is a form of development replicated on neighbouring properties. Development in Fallowfield follows a linear pattern.
4. By reason of the siting of the proposed dwellings, the positioning of windows on their rear elevations and the relatively short gardens included within the appeal scheme, views from the upstairs windows of the proposed dwellings would be possible into the rear gardens of properties in Fallowfield.
5. Owing to these factors, views from the upstairs windows of the proposed dwellings would be of the entirety of the gardens of Nos. 13 and 15. In

- consequence, the level of privacy experienced by users of these gardens would be significantly diminished.
6. In addition to the close proximity, there is a lack of landscaping to diffuse such views. As these gardens represent the only areas where existing residents might undertake private outdoor recreation, the effect on the privacy levels available to surrounding occupiers would be significant.
 7. The first-floor windows of the proposed dwellings would be in proximity to the rear gardens of the properties adjoining Nos. 13 and 15. In addition, these gardens are longer than that present at Nos. 13 and 15. Whilst such views would be at an oblique angle, the lack of potential screening would still result in a loss of privacy as movement of people would still be perceptible behind the windows.
 8. In addition, these windows would need to be clear glazed in order to ensure that users of these rooms would have an adequate level of outlook to the bedrooms that the windows would serve.
 9. Whilst I acknowledge that I have not been directed towards an adopted planning policy that prescribes minimum separation distances, it is clear that the policies to which I have been directed seek to maintain the living conditions of the occupiers of adjoining properties.
 10. Given that the proposed gardens are notably shorter than many others within the vicinity, the proposal would result in development taking place in closer proximity to the boundaries than other dwellings within the immediate surroundings. This would result in a notable loss of privacy for the occupiers of adjoining dwellings.
 11. I therefore conclude that the proposed development would result in a significant loss of privacy to the occupiers of adjoining properties. The development would, in this regard, fail to comply with the requirements of Policies LLP1 and LLP25 of the Luton Local Plan (2011-2031) (2017) (the Local Plan). These policies, amongst other matters, seek to ensure that developments result in high quality places and have a good quality design that responds to the site and building's context.

Living conditions

12. The proposed development consists of two dwellings with a rear projection. The development includes the provision of a relatively small rear garden to the rear of the proposed dwellings. There is little variation in terms of land levels between the appeal site and the adjoining properties.
13. The development would result in an increase in the intensity of the use of the site. Due to this, and by reason of the relationship between the proposed dwellings and those on existing plots, the rear gardens of the proposed dwellings would be the subject of views from the rear elevation windows of existing dwellings in Fallowfield.
14. These views would prevent users of the proposed gardens from experiencing a suitable level of privacy. This is particularly concerning as the evidence before me is indicative of the proposal being for the provision of family accommodation. In consequence, the absence of a satisfactory area where recreation, including outdoor play, might take place would prevent satisfactory

living conditions being secured for the future occupiers of the proposed dwellings.

15. In reaching this view, I have had regard as to whether a condition could be imposed in order to provide additional screening, such as in the form of enhanced landscaping, or taller boundary treatments. However, such a larger amount of screening is likely to have a significant enclosing effect upon the rear garden.
16. In consequence, such a condition would significantly restrict the levels of outlook that would be experienced by the future occupiers of the proposed development. As a result, such a condition would not satisfactorily overcome my previous concerns.
17. My attention has been drawn to areas of public open space within the vicinity. Whilst such areas may prove to be an appropriate venue for some types of recreation, future residents are still likely to require a space where some activities can be carried out in reasonable privacy. Therefore, the presence of public open space within the surrounding area does not represent an adequate substitute.
18. Whilst I acknowledge that the room sizes may fall below those prescribed within the Nationally Described Space Standards, my attention has not been drawn to any adopted policy that requires developments to be carried out in accordance with these.
19. In addition, I note that the rooms within the proposed development are of regular proportions and are of reasonable sizes. In consequence, future residents would have sufficient room to accommodate the furniture that they are likely to require, whilst retaining suitable circulation spaces.
20. Whilst I have found that there would be sufficient space within the proposed dwellings to provide appropriate living conditions for the future occupiers of the proposed development, this does not overcome the harm as previously identified in respect of the lack of privacy.
21. I therefore conclude that the development would not secure satisfactory living conditions for the future occupiers of the proposed development. The development would, in this regard, fail to comply with the requirements of Policies LLP1, LLP15 and LLP25 of the Local Plan. These policies, amongst other matters, seek to ensure that new developments do not result in an overly intensive use of a site; result in high quality places; and have a good quality design that responds to the site and building's context.

Character and appearance

22. The proposed development would be sited to the rear of two-storey, semi-detached dwellings in Fallowfield. The proposed dwellings would front onto Carol Close, which contains large terraced houses. The site is also close to Moat Lane and Reeves Avenue, which contain a variety of dwelling types including bungalows and smaller, two-storey, terraced houses.
23. Due to the variety of house types present in the surrounding area, there is not a strong unifying trend within the built form of the vicinity. In addition, the size of building plots does vary within the surrounding area depending on the positioning of the site and the type of dwelling located on it.

24. Accordingly, whilst the proposed dwellings are of a different design to many others within the vicinity, their introduction would not lead to a significant erosion of the area's character as they would be viewed against a backdrop of different dwelling designs and proportions.
25. Whilst the proposed development would result in the removal of the trees adjacent to Carol Close, the presence of such trees within Carol Close occurs on an intermittent basis. As such, their removal would not lead to notable harm to the area's character. In addition, I do not have any evidence before me that is indicative of the effected trees being the subject of any form of statutory protection.
26. Whilst views into the site would be possible, and the relatively small size of the rear gardens would be perceptible, these would only be possible near to the appeal site. This is due to the site being located close to the termination of a small cul-de-sac. In addition, the development would be screened, to a notable degree by dwellings within Carol Close and Moat Lane. These factors, when taken together, mean that the proposed development would not have a substantial amount of prominence. In consequence, the development would not result in significant harm to the area's character.
27. I therefore conclude that the development would have a satisfactory impact upon the character and appearance of the locality. The development, in this regard, would be in conformity with the requirements of Policies LLP1, LLP15 and LLP25. These policies, amongst other matters, seek to ensure that new developments are not unduly intensive; are of a good design; and preserve, or enhance, the character and appearance of the surrounding area.

Other matters

28. I acknowledge that the development would increase the supply of housing within the locality and the evidence before me is indicative that three-bedroom dwellings are in some need within the vicinity. Whilst this carries some weight, the level of benefit is limited by reason of the scheme being for two dwellings only. Furthermore, such benefits are significantly and demonstrably outweighed by the harm as previously identified.
29. My attention has been drawn to another development in Rockley Road, Luton. I do not have full information regarding the planning circumstances of this scheme, which lessens the amount of weight that can be attributed to it. However, I note that the relationship between the new dwellings and the surroundings are different, with most of the properties being located to the side of the site. In consequence, these layout variations amount to a different scheme, with different levels of privacy experienced by the residents of both the original and permitted dwellings. I therefore do not find that this development requires me to offset my previous concerns.

Conclusion and Planning Balance

30. Whilst I have found that there would be no harm to the character and appearance of the locality, this is only one of the issues that must be considered in assessing the development. As a result, this is significantly outweighed by the harm to the living conditions of the occupiers of the adjoining properties, and the lack of privacy for the occupiers of the proposed

dwellings. Accordingly, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR