



Appeal Decision

Site visit made on 8 January 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 30 January 2020

Appeal Ref: APP/B0230/W/19/3240719
320 Old Bedford Road, Luton LU2 7EJ

- 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 Abdul Sattar Askar against the decision of Luton Borough Council.
 - The application Ref: 19/01046/FUL, dated 1 August 2019, was refused by notice dated 25 September 2019.
 - The development proposed is to demolish existing two storey house and garage and erect a new two and a half storey five-bedroom house and associated external works.
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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 the adjoining properties;
 - the effect of the development upon the character and appearance of the surrounding area; and
 - whether the development would provide an appropriately sized dwelling, with particular reference to local need.

Reasons

Living conditions

3. The proposed dwelling consists of a large two-storey building that would encompass a notable proportion of the plot. The site boundaries are marked by wooden fences and some trees are located adjacent to the side boundaries. Neighbouring dwellings are relatively large, generally of comparable proportions, and sited in a linear form.
4. The proposed dwelling has a significantly larger footprint than the existing house, and many of those on neighbouring plots. In consequence, the dwelling would project beyond the rear elevation of the adjoining dwellings by a significant amount. This projection is combined with the design of the proposed dwelling, which owing to its height and roof pitch results in a building of bulky proportions.

5. In consequence of this, and its proximity to the side boundaries, the proposed development would have a notable enclosing effect on the surrounding properties, and particularly their rear gardens. This is particularly concerning as I note that the adjoining property at 318 Old Bedford Road features a patio area near to the siting of the proposed dwelling.
6. Owing to the height and positioning of the proposed dwelling, the enclosing effect of the development would result in a loss of outlook to the gardens and rear elevation windows of the neighbouring dwellings.
7. In reaching this conclusion, I have had regard to the presence of trees near to the side boundaries of the site. However, I note that some of these trees are to be removed in order to facilitate the proposed dwelling.
8. Whilst I note that the retained trees would provide some screening, the effect is limited owing to there being relatively few trees in proximity to the shared boundary with the adjacent property at No. 318. In addition, the evidence before me is indicative that the trees are not protected by any form of statutory protection. As such, their retention cannot be guaranteed. Given this factor and the fact that, at times, some of the trees might be subject to ill health, the screening effect of the trees may diminish over time.
9. In consequence, owing to these circumstances, a planning condition requiring the retention of these trees would be unreasonable given that it would not be possible to be certain that trees of the same type, height and positioning could be retained throughout the life of the development. In consequence, such a condition would not be compliant with the advice of the National Planning Practice Guidance.
10. I therefore conclude that the proposed development would have an enclosing and overbearing effect on the occupiers of the neighbouring properties. The development, in this particular regard, would 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 new developments enhance a sense of place, and maintain the living conditions of adjoining properties.

Character and appearance

11. The appeal site is located within a residential area. Dwellings within the vicinity are constructed to a variety of designs. These dwellings are generally set back from the highway. Whilst there are a number of different dwelling designs, numerous dwellings are set in from the site boundaries. In addition, several nearby dwellings feature single storey side projections, or hipped roofs with low eaves heights. In consequence, despite the large footprints, the area retains a degree of openness.
12. In contrast, the proposed dwelling has a different design approach. Whilst the design features a hipped roof, the eaves heights are notably taller than many of the other dwellings within the surrounding area, as well as the existing dwelling.
13. In addition, the proposed dwelling features a number of architectural features that do not commonly occur within the vicinity and are not present on the existing dwelling. These include the front dormer windows, portico and a front, first-floor balcony. The presence of these features, in addition to the roof

shape, would result in a dwelling that is of significantly greater scale and massing than the existing dwelling and the prevailing character.

14. In consequence, the proposed development would represent an incongruous and strident feature that fails to respond to the character of the surrounding area. This is particularly concerning as Old Bedford Road serves a significant number of dwellings. In addition, there is an educational institution with access from Old Bedford Road, which adds to the usage of this road. As a result, the appeal site is of significant prominence, which increases the harm arising from the inappropriate form of development.
15. This situation would be exacerbated by the character of the surrounding area being defined by the presence of low-level front boundary treatments. In addition, landscaping adjacent to the front boundaries tends to be relatively limited in height. In consequence, there is little opportunity for enhanced boundary treatments to be installed in order to provide additional screening of the development. This is because a boundary treatment that is taller, and less permeable, would appear equally incongruous given the prevailing character.
16. I therefore conclude that the proposed development would have a significant adverse impact upon the character and appearance of the surrounding area. The development, in this regard, would fail to accord with the requirements of Policies LLP1 and LLP15 of the Local Plan. These policies, amongst other matters, seek to ensure that new developments improve the character of the area and that larger homes do not result in an overly-intensive use of a site.

Suitability of dwelling

17. The proposed development is for a large dwelling. The surrounding houses are also of a larger scale, with the wider area containing a mixture of house types in terms of scale.
18. The submitted evidence identifies a particular need for the delivery of three-bedroom dwellings. The scale of the development does not accord with this particular need, however, whilst I acknowledge the need for three-bedroom dwellings within the area, the evidence before me also indicates that there is a need for larger dwellings (such as those with five bedrooms) within the vicinity.
19. I am also conscious that the National Planning Policy Framework (the Framework) emphasises the need to provide a mixture of house types in order to meet the needs of all groups of society.
20. In addition, the policies to which I have been directed do not state that a particular type of housing should be prioritised over another, particular one where there is an identified need. In consequence, weight does need to be given to the fact that there appears to be an identified need for larger dwellings. The proposed development would respond to this need.
21. I acknowledge that the development, if it were to proceed, would reduce the supply of smaller house types within the area. However, given that the reduction would be a single dwelling and it would be replaced by a house type for which there is also need within the locality, I do not believe that the harm generated would be that significant so as to justify dismissing the appeal on this particular reason.

22. I am also aware that a Certificate of Lawfulness for a Proposed Development has been granted for an extension at the property. This would increase the number of bedrooms within the dwelling. I am not aware of any impediment to this development being implemented and consequently have ascribed it some weight in my considerations. As it appears that a fall-back position exists in that the dwelling could be extended, the harm from a redevelopment of the site and replacing it with a dwelling with an increased number of bedrooms is diminished.
23. I therefore conclude that the proposed development would respond to local housing need. The development, in this regard, would comply with the requirements of Policies LLP1 and LLP15 of the Local Plan. These policies, amongst other matters, seek to ensure that new developments result in a growth in housing supply and respond to established local need.

Other Matters

24. The appellant has referenced several developments within the wider area. However, I note that there are a number of differences between these developments and the scheme before me. In particular, the dwelling at 199 Old Bedford Road is adjacent to a dwelling that features a side dormer. In consequence, it does not have the same open surroundings that characterise the appeal site and its immediate environs.
25. Furthermore, the surroundings of 281 Old Bedford Road also feature less openness on the grounds that the surrounding buildings feature side gable walls. I acknowledge that 278 Old Bedford Road is of a different design to many others within the surrounding area. However, this dwelling above ground floor level features a greater separation distance between it and other dwellings. As such, it does not have the same impacts on the character and appearance of the surrounding area.
26. I have also noted a number of other dwellings that have some architectural detailing akin to that proposed on the scheme before me. However, such detailing is generally of a smaller scale and is not the predominant form of architecture within the vicinity. Accordingly, I do not believe that the presence of other developments requires me to disregard my previous conclusions. The evidence before me also indicates that a number of the aforementioned developments were permitted under a different Development Plan, which further lessens the weight that I can attribute to them.
27. My attention has been drawn to an application for a Certificate of Lawfulness for a proposed rear extension. I do not have the full information regarding the planning circumstances of this proposed development, which lessens the amount of weight that I can attribute to it in my considerations. However, the evidence before me is indicative that the combined footprint of this extension and the existing house would be smaller than that sought within the proposal before me. In addition, the proposed extension and existing dwelling would have a very different design to the development before me. In consequence, I do not believe that the presence of the Certificate of Lawfulness for a Proposed Development application is sufficient to disregard my previous concerns in respect of the effects on the character and appearance of the surrounding area, and the living conditions of the occupiers of neighbouring properties.

Planning Balance and Conclusion

28. Whilst I do not believe that there would be significant harm arising from the number of bedrooms provided within the development, and that there is a need for the type of housing proposed, this does not outweigh the significant harm that would arise to the living conditions of the occupiers of adjoining properties and to the character and appearance of the surrounding area. In consequence, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR