
Appeal Decision

Site visit made on 27 January 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2020

Appeal Ref: APP/B0230/W/19/3241576

14 Chaul End Lane, Luton, LU4 8EZ

- 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 Satyam Toofanny against the decision of the Luton Borough Council.
 - The application Ref 19/00764/FUL, dated 2 June 2019, was refused by notice dated 26 September 2019.
 - The development proposed is erection of 2no. 2-bedroom chalet style bungalows on land rear of 14-16 Chaul End Lane.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the:
 - character and appearance of the area;
 - living conditions of existing occupants with particular regard to noise and general disturbance;
 - highway safety, with particular regard to the site access and parking provision.

Reasons

Character and appearance

3. The appeal site consists of a pair of semi-detached properties which front on to Chaul End Lane and have extensive rear gardens. The properties themselves are set back from the site frontage and have garages to the side with forecourt parking areas. There are a mix of uses in the surrounding area though commercial uses are predominately located to the east on the opposite side of Chaul End Lane or further to the south.
4. Whilst there is some variation in the style and layout of development, the area to the west of Chaul End Lane has an open and spacious character with dwellings set in substantial plots. In addition, there is a school and community centre to the north-west of the site which have significant areas of outdoor space that further contribute to the open character. There is an appreciation of the spaciousness afforded by the rear gardens, via gaps in the street frontage,

and this contrasts with and provides some visual relief from the more concentrated commercial and industrial development in the vicinity.

5. There is some variety in the style and design of dwellings, though regularity exists in the street scene, with properties set back consistently from the road in a distinct linear arrangement. The appeal site is reflective of this established pattern of development with the existing properties having substantial rear gardens. These make a positive contribution to the spacious and open character of the site and surrounding area.
6. The proposal is to demolish the existing garage and a small lean-to at the side of No 14 to create a driveway and erect 2 detached bungalows, these would be positioned behind the existing linear development, in a back-land position.
7. Although the dwellings would be within reasonably sized plots, with sufficient outdoor amenity space being provided, a large proportion of the site would be utilised for parking and turning areas. The proposal would also result in a significant reduction to the plot sizes of the existing dwellings and the garden areas would be uncharacteristically small, at odds with the established urban grain.
8. Whilst the proposed dwellings would not be prominent features in the street, this layout, back land siting, size and design of the proposed dwellings would result in a development that would be at odds with the prevailing pattern of development, resulting in harm to the open and spacious character of the site and surrounding area.
9. It is noted that Policy LLP25 of the Local Luton Plan 2011-2031, Planning and Economic Growth Place and Infrastructure, 2017 (LP) seeks to optimise higher densities and Paragraph 127c) of the National Planning Policy Framework (the Framework) states that policies and decisions should not discourage innovation or change (such as increased densities). However, they are also clear that developments should function well, and add to the overall quality of the area, being sympathetic to and responding positively to local character, establishing or maintaining a strong sense of place.
10. For the reasons outlined above the appeal scheme would not achieve this and would result in unacceptable harm to the character and appearance of the site and surrounding area. The proposal would therefore not accord with LP Policies LLP1, LLP15 and LLP25 which, amongst other things, seek to ensure that development achieves a high-quality design, enhancing local character and distinctiveness and responding positively to the site, building context, form, scale and pattern of development. For the same reasons the proposal would also fail to achieve the high-quality design that is required by Section 12 of the Framework.

Living conditions

11. The dwellings would be accessed via a proposed driveway to the side of No 14. The driveway would extend almost along the entire length of the boundary with No 12 and wrap around the rear garden areas of Nos 14 and 16.
12. Whilst windows to the side elevation of No 12 are to non-habitable rooms, and there would be no habitable room windows to the side of No 14 following removal of the existing lean-to, there are habitable room windows to the rear elevations of both properties that would still be in very close proximity to the

driveway. The flank elevation of No 14 would also partly form the driveway boundary.

13. As the driveway would be the sole means of access to the proposed dwellings, there would be a significant increase in activity levels. I consider there would be harm to existing occupants due to increased noise and disturbance from vehicle movements and engine noise in close proximity to the gable walls, rear windows and private outdoor space, where occupants could reasonably expect activity levels to be lower.
14. Whilst the provision of a boundary fence may mitigate the impacts to neighbouring properties to some degree, considering the size of the parking and manoeuvring space proposed, I consider there would still be the potential for significant noise and disturbance to adjacent properties, in particular their outdoor garden areas.
15. Although the appellant states that the driveway would be separated from No 12 by an acoustic fence, there are no details provided as to its extent, height or design. It has not been demonstrated that an acoustic fence would provide sufficient mitigation whilst also being acceptable in all other respects, and this matter could not, therefore, be addressed by condition.
16. For the reasons above I conclude that the development would significantly harm the living conditions of occupiers of neighbouring properties due to noise and general disturbance. The development would therefore conflict with LP Policies LLP1 and LLP25 which seek to ensure developments achieve a high quality and good standard of amenity for future occupants and avoid back land development where it would give rise to adverse amenity. The proposals would also be contrary to Paragraph 127 f) of the Framework which requires development to create places with a high standard of amenity for existing users.

Highway safety

17. I saw on my site visit that this is a busy part of the road network. Directly to the front of Nos 14 and 16 is a bus stop and there is also a right-hand turn filter lane to Connaught Road. In addition, to the south there is a traffic light-controlled junction for access to the retail park opposite. To the north there is a traffic light controlled pedestrian crossing adjacent to the Primary School which has its main pedestrian and vehicular access from Chaul End Lane.
18. This is therefore a location where drivers would need to pay particular attention to road conditions and make decisions, such as changing lanes, braking, adjusting speed and responding to traffic lights and, considering the proximity to the school, be particularly aware of pedestrians.
19. The proposed driveway would be narrow and constrained to either side by fencing and, in part, the existing dwelling at No 14. It would not permit 2 vehicles to pass and this would result in vehicles either having to reverse along the access or wait on the highway.
20. Any vehicles waiting on the carriageway would impede the free flow of traffic, particularly for buses and those utilising the filter lanes. This could lead to conflicts between vehicles, even at low speeds, to the detriment of highway safety.

21. Furthermore, as there would be no pedestrian footpath to the site, vehicles would need to share the space. Whilst the speed and frequency of expected vehicles would be low, given the restricted width and length of the proposed driveway a safe and convenient access for pedestrians would not be provided.
22. With regards to parking, the provision for the proposed dwellings would accord with the Council's parking standards though only 1 space would be retained for No 14. I note that LP Policy LLP32 sets maximum standards and the site is within close proximity to a range of shops, services and facilities. However, the policy is also clear that sufficient parking should be provided to help ensure that adverse effects on highway safety are minimised.
23. There are parking restrictions to Chaul End Lane, and I saw on my site visit that demand for on-street parking in nearby roads is high. I acknowledge this represents a snapshot in time, though a reduction in existing on-site parking provision would lead to increased demand for on-street provision.
24. Considering its limited availability, in an attempt to avoid obstructing the carriageway vehicles may attempt to park inappropriately wholly or partially on the footpath, leaving little or no room for pedestrians, particularly those with pushchairs or in wheelchairs, to pass. There may also be increased parking within the site that would impact on safe manoeuvrability of vehicles and affect their ability to enter and leave the site in a forward gear. This could lead to conflicts between pedestrians and vehicles to the detriment of highway safety.
25. Having regard to all of these factors, I therefore conclude that the development would result in an unacceptable risk to highway and pedestrian safety. The proposal would therefore not accord with LP Policies LLP31 and LLP32 which seek to ensure that developments reduce the safety risk to motor vehicles, non-motorised and vulnerable uses and provide adequate levels of car parking.

Other Matters

26. The appellant has referred to a previous Inspector's decision¹ and approvals by the Council on other sites². Whilst those dwellings were within back land positions, I note from the detail submitted and my site visit, that layout is reflective of the development within the vicinity of those sites. There is more variation in the dwelling styles, design and layouts and there is not the same strong linear character to development that is evident in the vicinity of the appeal site.
27. With regard to impacts on highway safety the access for the site at Arundel Road, which would serve 2 dwellings, is shown to be substantially wider than that proposed at the appeal site. In addition, it is less constrained by existing development with greater separation to the adjacent dwellings. Whilst the accesses proposed for the other sites appear narrower it is noted that these would serve only 1 dwelling. Development in back land positions also appears to form part of the established character of development in those locations and so activity to the rear is not uncommon. This would not be the case with the appeal site.
28. Furthermore, the other sites highlighted are in predominately residential areas and I saw that the road conditions and traffic levels are substantially different

¹ APP/B0230/W/16/3161456

² 16/01137/FUL & 18/00944/FUL

to those at the appeal site. I therefore do not consider these other developments to be directly comparable to the appeal site or scheme. In addition, I do not know the full circumstances of those sites and, in any event, each case must be considered on its own merits. These other matters do not, therefore, lead me to a different conclusion.

Planning Balance

29. LP Policies and the Framework do emphasise the need to support the efficient use of land and the proposal would provide 2 additional dwellings. However, the provision of 2 dwellings could only have a limited benefit in relation to boosting the supply of housing.
30. I note that Para 118 of the Framework states that planning policies and decisions should promote and support the development of underutilised land especially if this would help to meet identified needs for housing where land supply is constrained or there is a shortage of land to meet identified housing need.
31. The Strategic Housing Market Assessment identifies a need for 2-bedroom properties. The proposal would contribute to that need and I attach some weight to that provision. There is however nothing in the evidence before me to suggest that in this location there is a shortage of land to meet the identified housing needs or that housing land supply is particularly constrained. The site currently functions as private amenity space for the existing dwellings and is not therefore underutilised. Furthermore, as outlined above it adds to the open and spacious character of the site and surrounding area.
32. Any employment created during construction and from future occupants use of local services would only result in temporary and modest benefits. That the proposed dwellings would be located close to local services, incorporate sufficient outdoor garden space and separation to existing properties would have a neutral effect, and therefore do not weigh in favour of the appeal.
33. Although I recognise the important contribution small sites can make to meeting the housing requirements of an area, the harm I have identified means that adverse impacts of granting permission would significantly and demonstrably outweigh the limited benefits, when assessed against the Development Plan or the Framework as a whole.

Conclusion

34. For the reasons given above I conclude that the appeal is dismissed.

A Denby

INSPECTOR