



Appeal Decision

Site visit made on 19 May 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2020

Appeal Ref: APP/B0230/W/20/3245128 40 Boxted Close, Luton LU4 9HW

- 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 M Daher against the decision of Luton Council.
 - The application Ref 19/01157/FUL, dated 22 August 2019, was refused by notice dated 21 November 2019.
 - The development proposed is erection of attached two bed dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an attached two bed dwelling at 40 Boxted Close, Luton LU4 9HW, in accordance with the terms of the application, 19/01157/FUL, dated 22 August 2019, subject to the conditions set out at the end of this decision.

Main Issues

2. The main issues are:
 - The effect upon the character and appearance of the area; and
 - The effect upon the living conditions of existing and future residential occupiers at the site, having particular regard to the availability of private garden space.

Reasons

Character and appearance

3. The appeal site contains an end-of-terrace property (No 40) that is located within a residential urban area that is largely defined by a mix of terraced and semi-detached properties. Neighbouring properties are typically positioned on consistent building lines and, where not attached, tend to be tightly spaced. There is thus a compact and somewhat formal pattern of development in place.
4. The proposed dwelling has been designed to closely complement the form and appearance of both the dwelling it would be attached to and the wider terraced block that it would form a part of. Indeed, the newly proposed dwelling would be viewed and experienced in the context of these attached terraced houses and, in this sense, it would not appear as a discordant addition to the streetscene.
5. The new dwelling would be positioned in proximity to the public highway. The spaciousness provided by virtue of No 40's current setback position would thus

be eroded. However, there would not appear to be a readily identifiable rhythm to the way in which terraced blocks are laid out in the local area. Indeed, only a small number of such blocks have a close physical relationship to the appeal site and their precise relationship to the public highway varies. In this case, some degree of separation (albeit narrow in extent) would be retained between the new dwelling and the public highway. I am satisfied that an overly dense form of development is not proposed, which would suitably respond to the typically compact layout of the local urban area.

6. The proposal involves the punctuation of existing perimeter boundary treatment so as to provide opportunities for off-street parking. Whilst other nearby properties that back on to the Close tend to be served by fully enclosed rear garden spaces, a varied mix of garage frontages and differently designed boundary treatments are currently in place. I do not consider that the intended removal of a relatively short extent of boundary treatment would have a detrimental visual effect, nor lead to the proposed development appearing unduly prominent in the streetscene.
7. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The proposal accords with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031 (November 2017) (the Local Plan) in so far as these policies require that development proposals should respond to and enhance local character and that new housing should not result in over-intensification of the site.

Living conditions

8. Policy LLP25 of the Local Plan sets out that new housing should be delivered in accordance with external amenity space standards (the standards), as set out in Appendix 6 of the Local Plan. The standards require that an enclosed rear garden of 90 sq m should be provided, other than for units of 1-2 bedrooms where a lesser area will be considered. Furthermore, having regard to the character of the area and design of the house, the standards state that smaller enclosures could also be acceptable. But that, in any event, the area shall not be smaller than 45 sq m.
9. In this instance a new 2-bedroom dwelling is proposed that would be served by an enclosed private garden space measuring approximately 58 sq m in area. This would be supplemented by a further area of garden to the property's northern side. Despite the limited size of the intended northern area of garden, the proposed site layout would be largely reflective of the way in which other properties within the same terrace of houses are laid out. Thus, a meaningfully sized area of private garden space is proposed that would be consistent with the makeup and character of the area.
10. The proposal would necessitate a significant reduction in the extent of external garden space that would serve No 40. Nevertheless, a not insignificant extent of enclosed private garden space measuring approximately 46 sq m in area would be retained for the private enjoyment of existing occupiers. A further area of front garden would be retained, and the proposed arrangements would be largely reflective of the way in which neighbouring properties are laid out and would be consistent with the area's typically compact character and appearance.

11. For the above reasons, the proposal would not cause harm to the living conditions of existing and future residential occupiers at the site, having particular regard to the availability of private garden space. The proposal accords with Policies LLP1 and LLP25 of the Local Plan in so far as these policies encourage sustainable development, optimise higher densities and promote the delivery of new housing in accordance with external amenity space standards.
12. The proposed development accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conditions

13. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes and omitted others related to landscaping and a dilapidation survey of footpaths and roads.
14. In the interests of certainty, a condition specifying the approved plans is required. In the interests of protecting the character and appearance of the area, a condition is reasonable and necessary that requires the external surfaces of the building to match those used to No 40. On this basis I do not consider it necessary to require full physical material samples to be submitted for approval. Considering the confined extent of new hard surfacing proposed and the site's limited potential to support new planting, the final details of landscaping would be best left to the dwelling's future occupiers. A condition to secure a landscaping scheme is therefore unnecessary.
15. In the interests of protecting the visual amenities of the area and the living conditions of existing and future residential occupiers, a condition securing the submission, implementation and future retention of a boundary treatment scheme is both reasonable and necessary. To guard against undue pressure being placed upon the public highway for parking, a condition is reasonable and necessary that secures the laying out of the approved off-street car parking spaces prior to the development's first occupation as well as their subsequent retention.
16. In light of the small scale of development and the limited potential for any substantive damage to be caused to the public highway during construction, I do not consider it either reasonable or necessary to require the appellant to carry out a dilapidation survey prior to works commencing on site. In the interests of safeguarding the living conditions of future occupiers and protecting human health, a condition is reasonable and necessary that secures the reporting of any contamination identified during construction and the carrying out of remediation measures if required.

Conclusion

17. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans: 19057-01, 19057-02 Rev A, 19057-03 Rev A, 19057-04 Rev A, 19057-05 Rev B, 19057-06 Rev A, 19057-07 Rev A, 19057-08 Rev A, 19057-09 Rev A.
- 3) Prior to the first occupation of the development hereby permitted, full details of the boundary treatment of the site shall be submitted to and approved in writing by the Local Planning Authority, the approved treatment shall be installed before the dwelling hereby permitted is first occupied and retained at all times thereafter.
- 4) Prior to the first occupation of the development hereby permitted, the parking provision as identified on approved plans 19057-03 Rev A and 10957-05 Rev B shall be laid out ready for use and retained solely for the purposes of parking at all times thereafter.
- 5) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used to the existing dwellinghouse (40 Boxted Close).
- 6) In the event that contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11' and a written report of the findings shall be forwarded to the Local Planning Authority for written approval. Following completion of remedial measures, a verification report demonstrating the effectiveness of the remediation carried out shall be prepared and then submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is first occupied.