



Appeal Decision

Site visit made on 2 June 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th June 2020

Appeal Ref: APP/B0230/W/20/3246178

7 Cherry Tree Close, Luton, Bedfordshire LU2 0LF

- 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 Mrs H Aghafekoghian against the decision of Luton Council.
 - The application Ref 19/01355/FUL, dated 29 September 2019, was refused by notice dated 24 December 2019.
 - The development proposed was described as 'side extension to become separate flat for person with disability.'
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Decision

1. The appeal is allowed and planning permission is granted for conversion and change of use of a side extension to a two bed flat at 7 Cherry Tree Close, Luton, Bedfordshire LU2 0LF in accordance with the terms of the application Ref 19/01355/FUL, dated 29 September 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, mma.477, mp.2334, mp.23334B, mp.2767764 and mp.247677644A, except in respect of the arrangement of fenestration shown on plan mma.477.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The development hereby permitted shall not be occupied as a two bed flat until boundary treatment between this proposed dwelling and the retained dwelling at 7 Cherry Tree Close has been provided in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
 - 5) The development hereby permitted shall not be occupied as a two bed flat until the additional parking space shown on plan No. mma.477 to the rear of the proposed dwelling has been laid out in accordance with plan No mma.477 and that space shall thereafter be kept available at all times for the parking of motor vehicles by the occupiers of 7 Cherry Tree Close and their visitors and for no other purpose.

Procedural Matters

2. The Council altered the description of application 19/01355/FUL to read 'conversion and change of use of a side extension to a two bed flat'. This is also

the description given on the appeal form. I have considered the appeal accordingly and used this description in my formal decision above.

3. As part of the appeal, the appellant submitted revised floorplans and elevations (plan Nos mp.23334B and mp.247677644A) which alter the arrangement of fenestration at ground floor level. Given the minor nature of these changes which do not materially alter the development proposed, I am satisfied that my consideration of these revised plans would not prejudice the interest of any party. I have therefore determined the appeal accordingly.
4. A revised proposed block plan (plan No mma.477A) was also submitted and shows alterations to the layout of parking on the site which would result in a tandem parking arrangement to the rear of neighbouring dwellings. This would be a significant alteration from the original proposal, and I cannot be certain that all parties have had an opportunity to comment on this revised arrangement. In the interests of fairness, I have therefore determined the appeal on the basis of the block plan which was before the Council and interested parties at the time of the Council's decision (plan No. mma.477), except in relation to the fenestration shown on this plan.
5. At my visit, I saw that development had commenced on the site. However, I have dealt with the appeal on the basis of the development as proposed by the submitted plans as noted above.

Main Issues

6. The main issues are (i) the effect of the proposal on the character and appearance of the area; and (ii) whether or not the proposal would provide acceptable living conditions for future occupiers with particular regard to outlook, light, internal space and provision of external amenity space.

Reasons

Character and Appearance

7. The appeal dwelling is located at the head of the small cul-de-sac of Cherry Tree Close and forms the end of a terrace of 4 dwellings. Opposite, and facing this terrace, are a detached dwelling and a semi-detached pair. Similar external brick finishes and two-storey bay features are common between the terrace and semi-detached dwellings. However, the detached dwelling at 6 Cherry Tree Close is finished externally in a different brick and lacks a front bay feature. There are also attached single-storey garages to the sides of 1 and 2 Cherry Tree Close, and the appeal dwelling has been previously extended to the side through a two-storey extension which projects deeper than the host dwelling at single-storey level. These elements, together with the assorted garages located at the head of Cherry Tree Close, add a degree of diversity and contrast to the street scene, and there is no apparent design unity.
8. The appeal proposes that the extension to the side of No 7 would form a two-bedroom dwelling. I agree with the Council that the design and position of the existing extension means it appears subordinate to No 7. However, the amended plans submitted with the appeal no longer propose alterations to the door to the front of the building. Nor are any alterations proposed to the frontage of the site. As a consequence, the front elevation of the building would largely retain the appearance of a single dwelling, and would be similar to No 6 opposite which also has two doors within its front elevation.

9. The presence of the dwelling may still be revealed by features such as a letter box or door number. Even so, the set back of the existing extension from the front elevation of No 7 limits its visibility in the street scene. I note the Council's concern that the dwelling would not reflect the established building line. However, the built form is already in situ and in my view, the siting would help to limit the visual impact of the dwelling in the street scene and its prominence, and I disagree that the position of the development would detract from the character of the area.
10. I accept that the proposed dwelling would have a somewhat elongated footprint and that both the dwelling and its plot would be of lesser width than nearby properties, but the dwellings on Cherry Tree Close are not consistent in their form, scale or design. In any case, the difference in the width and total footprint of the dwelling from others close by, and particularly Nos 3 and 5, would not be so striking as to appear conspicuous or jarring.
11. Other dwellings on Cherry Tree Close typically fill the width of their plots at single or two-storey level so this would not be exceptional to the proposed dwelling, and the access which runs to the side of the appeal site provides additional spacing around the building. I saw that extensions have reduced in part the depth of the rear gardens of Nos 3, 5 and 6, and while the rear garden to the proposed dwelling would be fairly shallow, it would nevertheless provide functional space for occupiers and would not be readily apparent within the street scene of Cherry Tree Close. Given these factors, I find that the dwelling would not appear unduly cramped, excessive or over-intensive on the site.
12. With regard to the diversity in the street scene including the mix of dwelling types, I see no reason that the different scale and appearance of the proposed dwelling would result in an obtrusive or incompatible feature. Nor do I find that the proposal would fail to respond positively to the existing context or result in visual harm, including with regard to the existing pattern of development.
13. The Council refers to an appeal for construction of an attached dwelling in place of a permitted side extension¹ where it was found there would be harm to the character and appearance of the area. However, the decision in that case refers to a distinct built rhythm in the street scene and a strong local character with predominantly untouched dwellings, and in further contrast to the appeal site, the extension had not been constructed. The circumstances are not therefore directly comparable to those in the appeal before me, which I have in any case considered on its own merits.
14. For all of these reasons, I conclude on this main issue that the proposal would contribute to the supply of housing of a mix of sizes and types without causing harm to the character or appearance of the area. Given this, I find no conflict with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2017 (LLP) which together broadly require development to respond to its surrounding context and enhance the distinctiveness and character of an area. It would also accord with objectives within the National Planning Policy Framework (the Framework) which seek well designed places and the efficient use of land.

¹ Appeal reference APP/B0230/W/18/3199065

Living Conditions

15. I note the Council's comments that provision of boundary treatment between the existing and proposed dwellings would restrict outlook from and light to windows to the side of a ground floor bedroom within the proposed dwelling. However, the amended plans submitted as part of the appeal relocate the windows serving this bedroom to the outer side elevation. Moreover, there are also a set of glazed doors to the rear of this room which face onto the rear garden. Separation to the rear boundary of the site would be sufficient to avoid an undue sense of enclosure, and together with the open rear gardens of neighbouring dwellings beyond, this would offer suitable outlook and levels of light for future occupiers.
16. The Council advises that the proposed dwelling would have an internal area of approximately 60sqm, below the suggested 70sqm for a two-bedroom, three-person dwelling outlined within the Government's Technical Housing Standards - Nationally Described Space Standards (NDSS). Footnote 46 of the Framework advises that policies may make use of the NDSS where the need for an internal space standard can be justified, but the Council confirm that the LLP does not include a policy relating specifically to internal space standards or compliance with the NDSS. In this context, while the NDSS may provide a useful indication of the reasonable size of dwellings, it is not an absolute requirement.
17. The proposed dwelling, and the first-floor bedroom in particular, would not necessarily be spacious, but they would nevertheless provide a usable and functional area for future occupiers, and I see no reason that the shape or layout of the dwelling would make accommodating furniture or suitable access to space for storage impractical. Nor would the proposed internal layout result in impractical or constricted circulation routes. Notwithstanding the quantum of internal floorspace provided, I am therefore satisfied that the development would not result in a cramped internal environment and I find that the dwelling would offer comfortable living accommodation for future occupiers.
18. Turning to consider external space, the Council's evidence suggests a need for 6sqm to serve the proposed dwelling. This relates to the requirement for 5sqm private outdoor space for 1-2 person flats with an extra 1sqm for each additional occupier in accordance with standards for new housing outlined at Policy LLP25 and Appendix 6 of the LLP.
19. From the limited information before me, I am unable to draw any firm conclusions on the measurement of external space that would be provided for the proposed dwelling. I also note reference by the Council to planning permission granted for a 3m deep conservatory to the rear of the existing single-storey rear projection² which would reduce the available space. However, even if the permitted conservatory were to be implemented, there would remain some amenity space to the rear of the proposed dwelling. Although not of great depth, this would be larger than a balcony which commonly provides private outdoor space for occupiers of flatted developments in accordance with standards, and would provide usable space for occupiers of the dwelling. I am not therefore persuaded that the proposal would fail to provide suitable external amenity space.

² Application reference 19/00547/FUL

20. Taking all of the above factors together, I conclude on this main issue that the development would provide acceptable living conditions for future occupiers. Accordingly, I find no conflict with Policies LLP1 or LLP25 of the LLP which seek high quality design, including housing which ensures access to storage and external amenity space. The proposal would also reflect the objective of the Framework to provide a good standard of residential amenity for existing and future occupants of buildings.

Other Matters

21. The appellant advises that the development is designed to meet the needs of a person with disabilities. However, this is not a factor which would alter my findings on the main issues above.

Conditions and Conclusion

22. The Council has not suggested conditions in the event that the appeal is allowed. However, having regard to the tests outlined at paragraph 55 of the Framework and the content of the Council's officer report on the application, I have imposed the standard time limit condition, along with a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. A condition to control the external materials is necessary in the interests of the character and appearance of the area, and conditions to require implementation of the proposed parking layout and suitable boundary treatment are necessary in the interests of ensuring adequate parking is available and the living conditions of occupiers of the site.
23. Subject to these conditions, and for the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR