



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: 08 June 2020

Appeal Ref: APP/B0230/W/19/3242094

24 Old Bedford Road, Luton LU2 7NZ

- 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 Sean Egan against the decision of Luton Borough Council.
 - The application Ref 19/01130/FUL, dated 21 August 2019, was refused by notice dated 17 October 2019.
 - The development proposed is erection of single/two storey detached building to provide a one-bedroom duplex.
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Decision

1. The appeal is dismissed.

Main Issues

The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on the living conditions of existing occupiers of neighbouring properties with particular regard to overlooking, visual impact, daylight and sunlight, and noise and disturbance;
- whether the proposal would provide an adequate standard of accommodation for potential future occupiers; and
- whether the proposal would contribute to the housing needs of the Borough.

Reasons

Character and appearance

2. The site comprises a mid-terraced property with commercial use at ground floor and residential accommodation above. The residential units are accessed via a gated passageway from Old Bedford Road and an external staircase to the rear. The rear of the site is currently hard surfaced and enclosed to all boundaries by either a brick wall or timber fencing.
3. There are a mix of property sizes, styles and designs in the vicinity, though the site forms part of a more traditional terrace of properties the majority of which, including the appeal site, have two-storey outriggers, of varying depth, to the

- rear. The appeal scheme proposes a two-storey dwelling positioned to the rear of the site and extending the full width of the plot.
4. The two-storey outrigger at the appeal site has a limited depth, and a substantial part of the site remains undeveloped. Therefore, although the site is within an urban location, it has an open and spacious character, with particularly spacious outward views to the rear, and it offers some visual relief from the built form.
 5. Whilst some of the outriggers to adjacent properties extend the full depth of their plots, they do not extend across the full plot width and retain spacing to the site boundary. They reflect the development of the area and the evolution of buildings from commercial and industrial use, as part of past industry associated with the area, and are very much viewed in that context, being part of, and associated with their host properties.
 6. This would not be the case with the appeal proposal. Its back-land siting, design and layout would clearly identify it as an independent building. With its asymmetrical design, catslide roof and substantial double height glazing, the proposed dwelling would have a distinctly different character and appearance to existing development on the site and in the surrounding area.
 7. In addition, it would occupy a significant portion of the rear of the site, extending the full width of the plot and directly adjoining the rear site boundary, appearing cramped. The proposed layout and siting would result in a development at odds with the prevailing pattern of development in the vicinity, resulting in unacceptable harm to the open and spacious character of the site. It is acknowledged that the site is not within a conservation area, near any designated heritage assets and views of the proposed dwelling from the surrounding area would be limited, though this would not outweigh the harm I have identified.
 8. The proposal would therefore not accord with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031, adopted 2017 (LP) 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 National Planning Policy Framework (the Framework).

Living Conditions: Existing occupiers

9. There is an existing first floor kitchen window to the rear of No 24 Old Bedford Road that would be directly opposite the proposed dwelling. The appellant states that this window serves a galley kitchen which they consider too small to be used for dining purposes, and the height of the window limits inter visibility with the proposed dwelling.
10. However, it cannot reasonably be assumed that the kitchen would be occupied less, simply because it could not accommodate dining space. It is a habitable room and occupiers of the existing property should expect to be able to enjoy the use of that room without feeling unacceptably overlooked. Nonetheless, considering the height of the kitchen window and inset of the proposed

mezzanine, the degree of overlooking that would result would not, in itself, be so unacceptable as to justify dismissing the appeal.

11. Similarly, the design and layout of the proposed dwelling and angled relationship to neighbouring properties would also limit any potential overlooking. The external staircases are already overlooked by existing properties and, as they do not form part of the habitable accommodation, I do not consider any increased overlooking of these would result in harm to living conditions.
12. The proposed dwelling would however be substantial, and due to its width, overall height and proximity to the site boundary it would be an imposing and dominant feature and have a significant enclosing effect when viewed from the existing residential units at No 24 and No 26. Its size and design, with asymmetrical roof and double height glazing, results in a vertical emphasis that would, visually, further increase its height and make it appear more dominant when viewed from the neighbouring properties.
13. Whilst the roof to the proposed dwelling would slope away from No 26, the dwelling would directly adjoin the boundary. The existing boundary fence permits an appreciation of the skyline and there is greater separation to the single storey building at the rear of No 22.
14. In contrast, the proposed dwelling due to its close proximity, overall height, depth and resulting expanse of roof slope, would be an imposing feature when viewed from No 26 and result in a more restricted outlook, particularly from the ground floor residential unit. In addition, due to the orientation of the site there would be a significant impact on the sunlight and daylight to the existing ground floor bedroom window at No 26 that would unacceptably harm their living conditions.
15. The existing windows to the rear of No 22 are partially obscured by existing single storey extensions and outbuildings to that property, as such, although visible from this property the proposal would not result in any harmful impact to the living conditions of existing occupants.
16. The proposed dwelling would have its sole access through the communal courtyard. The existing dwellings at No 24 and No 26 are accessed from the rear and therefore, such activity in this location would not be unusual. Considering this, the size of the proposed dwelling and that only pedestrian access would be provided, I do not consider the likely increase in general comings and goings would result in any significant noise or general disturbance that would harm the living conditions of existing occupants.
17. Although I have not found harm in relation to the existing occupiers of No 22, overlooking or general noise and disturbance, for the reasons outlined above the development would have a significant harmful effect on the living conditions of existing occupants of No 24 and No 26 from visual intrusion, impact on outlook and loss of daylight and sunlight.
18. 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, avoiding back land development where it would give rise to adverse amenity. For the same reasons the proposal 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.

Future potential occupiers

19. The proposed dwelling would be single aspect, with its outlook onto the existing buildings and the proposed communal outdoor courtyard. The bedroom would be provided within a setback mezzanine level, and whilst this may address issues of overlooking to existing properties, it would result in a poor outlook for future occupiers.
20. The dwelling would also be in close proximity to existing properties and significantly overlooked. This would include direct overlooking from No 24. As detailed above, the kitchen window to that property would be at a higher level, and with the large expanse of glazing proposed at the appeal site, existing occupiers would have an elevated view into the proposed dwelling.
21. The proposed internal arrangement of the dwelling would restrict overlooking of the bedroom, though the extent of glazing proposed would permit clear views into the main living space, even with the window being slightly offset. Considering the proximity to No 24 the degree of overlooking would result in unacceptable harm to the living conditions of future occupiers.
22. There are also first floor windows to No 26 that would directly face onto the appeal site, and a number of dormer windows to neighbouring properties that would overlook the proposed dwelling. It is acknowledged that these would not have a direct window-window relationship with the proposed dwelling, though with the back-land siting and proximity to existing properties, future occupants would have little respite from the surrounding development and would experience a general perception of lack of privacy and feeling of being hemmed in.
23. I note the appellant has stated that the dwelling would achieve acceptable internal space and they consider the proposed layout and design provides for good natural light and sense of space internally. Whilst I am mindful of this it does not overcome the harm I have identified in respect of outlook and the lack of privacy.
24. For the reasons above the development would not achieve a high level of amenity for future occupants. The development would therefore conflict with LP Policies LLP1, LLP15 and LLP25 which, amongst other things, seek to ensure developments achieve a high quality and good standard of amenity, avoiding back land development where it would give rise to adverse amenity. For the same reasons the proposal would also be contrary to Paragraph 127 f) of the Framework which requires development to create places with a high standard of amenity for future users.

Housing needs

25. LP Policies LLP1 and LLP15 seek to ensure that new housing developments achieve a housing mix that meets the identified needs of the Borough, as informed by the latest Strategic Housing Market Assessment (SHMA). The SHMA indicates that, whilst the need for one-bedroom dwellings is low, there has been a significant over-delivery of these types of properties.

26. The Council are concerned that as the appeal scheme proposes a 1-bed property it would add to this oversupply and not achieve the policy objective of meeting assessed housing needs. The proposal would however not lead to the loss of a use for which there is a recognised need. Furthermore, there is little in the evidence before me to detail what harm would arise from any oversupply in this instance, or to suggest that the appeal proposal would compromise the delivery of a scheme that would address identified housing need.
27. On this basis and considering the size and location of the appeal site, whilst the proposal would add to the oversupply of 1 bed dwellings, I do not find that the proposal would conflict with LP Policies LLP1 and LLP15. Although referenced in the reason for refusal LP Policy LLP16 relates to the provision of affordable housing. Due to its size there would be no requirement for the appeal scheme to make such provision and therefore I do not find any conflict with this Policy.

Other Matter

28. Whilst the appellant has attempted to address the Council's objections to previous schemes on the site, having considered the proposal on its own merits, this does not alter the harmful effects I have found. This other matter does not, therefore, lead me to a different conclusion.

Planning Balance

29. I note that LP policies and the Framework emphasise the need to support the efficient use of land and acknowledge the important contribution small sites can make to housing supply. The site is also within the High Town Strategic Allocation (HTSA) and LP Policy LLP10 seeks to deliver a sustainable, vibrant and historic neighbourhood destination through residential-led mixed use development. Whilst I have taken these matters into account the provision of one additional dwelling would have a limited impact in relation to boosting the supply of housing or meeting the policy objectives for the HTSA.
30. That the development would be located close to local services, provide adequate garden area and raise no concerns in relation to flooding, would have a neutral effect, and therefore do not weigh in favour of the appeal.
31. The provision of a landscaped courtyard would improve the appearance of the site though there is little in the evidence before me to suggest that the appeal scheme is the only way to achieve this.
32. Overall, I do not consider any benefits of the proposal would be sufficient to outweigh the harm identified, and the proposal would not accord with the Development Plan or Framework when taken as a whole.

Conclusion

33. For the reasons given above I conclude that the appeal should be dismissed.

A Denby

INSPECTOR