
Appeal Decision

Site visit made on 7 July 2020

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2020

Appeal Ref: APP/B0230/W/20/3245491

41 Denbigh Road, Luton LU3 1NR

- 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 Imran Ahmed against the decision of Luton Council.
 - The application Ref 19/00987/FUL, dated 19 July 2019, was refused by notice dated 29 November 2019.
 - The development proposed is erection of a three bed detached house.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on
 - (i) the character and appearance of the area;
 - (ii) the living conditions of the occupants of Nos. 39 and 41 Denbigh Road with particular regard to noise and disturbance associated with the new shared vehicular accessway and parking areas; and
 - (iii) the living conditions of the future occupiers of the proposed dwelling with particular regard to privacy.

Reasons

Character and appearance

3. The appeal site forms part of a long narrow garden area at the rear of No. 41 Denbigh Road (No. 41), a two storey semi-detached property with detached garage and outbuildings at the rear. It is located in a mature well-established high density residential area with some commercial uses, typically characterised by two storey properties on narrow plots set back from the road behind a front garden/driveway.
4. To the north, east and west of the appeal site are the relatively long garden areas and the outbuildings associated with the adjacent properties. To the south is the Denbigh Primary School. Where outbuildings and other structures exist behind the residential properties, these are generally low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying open character and

- appearance, which is further enhanced by the presence of mature landscaping within the surrounding gardens and the Primary School grounds.
5. Although the proposed dwelling would not appear overlarge, relative to the overall plot size, the two storey form and layout of the dwelling would nevertheless be substantial in this location and be significantly different to those typically found in the area. Such positioning would result in a development that would compromise the sense of space and openness between the dwellings and interrupt the established pattern of development in the area.
 6. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed dwelling on the street scene. In any case, the site is viewed from the rear of the surrounding properties. As such, I consider that the proposed development, by virtue of its scale, siting and design, would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
 7. I have considered the appellant's arguments that the design and layout of the proposed dwelling have been carefully considered in order to minimise any impacts on the adjacent properties and the area and has been redesigned in response to the Council's pre-application and planning application advice. Whilst the use of materials, fenestrations and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
 8. Consequently, I conclude that the proposal would result in harm to the character and appearance of the area. It would be contrary to the overall aims of Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2017 (LP) which, amongst other things, require development proposals to be of a high quality design that create quality places and improve or enhance the distinctiveness and character of the area. In addition, the proposal would not accord with the National Planning Policy Framework (the Framework) that developments should seek to secure a high quality of design (paragraph 124) that are sympathetic to the local character (paragraph 127).

Living conditions of the occupiers of the neighbouring properties

9. The proposal involves the demolition of a detached garage and outbuilding and creation of a new vehicular shared accessway between Nos. 39 and 41 Denbigh Road (Nos. 39 and 41) to serve the proposed dwelling and No. 41. The proposed access would run alongside the narrow rear gardens of Nos. 39 and 41 and the proposed parking area for the new dwelling would be located immediately behind the rear garden at No. 39. A timber sound barrier fence is proposed along the common shared boundaries.
10. Although, in general terms, rear gardens may contain various structures incidental to the use of the dwellings, in this location the intensity of use and activities arising from an additional dwelling and parking spaces are likely to be materially different. In this respect, I am mindful of the objections received from the Council's Environmental Protection officer to the proposal.
11. Whilst I accept the occupiers of No. 41 would be used to certain levels of noise and disturbance associated with the existing vehicular accessway and, that the proposed boundary treatment would reduce the impact of the development to

some degree, given the design and layout of the proposed development and the separation distance between the properties, I consider the proposal would give rise to an increased level of noise and disturbance in the rear garden of Nos. 39 and 41 associated with the proposed vehicular access and parking areas. In particular, it is likely to lead to a level of comings and goings from vehicles that would be higher than might be expected from the existing dwelling and any incidental buildings. I therefore consider that the proposed access and parking areas would adversely harm the living conditions of the occupiers of Nos. 39 and 41.

12. As such, I conclude that the development would adversely harm the living conditions of the occupiers of the neighbouring properties at Nos. 39 and 41 Denbigh Road with particular regard to noise and disturbance. It would be contrary to Policies LLP1 and LLP25 of the LP which seek, amongst other things, to ensure that development creates quality places that do not adversely affect the amenity of nearby occupiers. In addition, it would not accord with the Framework that development should seek to create places that promote health and well-being, with a high standard of amenity for existing and future users (paragraph 127).

Living conditions of the future occupiers of the proposed dwelling

13. The blank side elevation of the proposed dwelling would be located adjacent to the rear elevation of the two storey properties along Tudor Road to the west of the site. It would be separated from the rooms and gardens at the rear of the adjacent properties by the outbuildings and the proposed close boarded fence to be provided along the common shared boundaries as part of the appeal scheme. Due to the sloping topography of the site, the proposed dwelling would also be set back and stepped down below the enclosed gardens at the rear of the properties along Denbigh Road to the north and east of the site.
14. Whilst I accept that there would be some impact on the development, given the overall design and layout of the proposed dwelling, set back and stepped down, together with the boundary treatment, site levels and the separation distance between the properties, I do not consider that the adjacent properties would cause significant harm to the privacy, nor result in significant overlooking of the future occupiers in the rooms and garden area of the proposed dwelling. I therefore consider that the proposal would result in a satisfactory living environment for the future occupants of the proposed dwelling.
15. As such, I conclude that the development would not result in significant harm to the living conditions of the future occupiers of the proposed dwelling with particular regard to privacy. It would be consistent with the aims of Policies LLP1 and LLP25 of the LP which seek, amongst other things, to ensure that development creates quality places that do not adversely affect the amenity of nearby occupiers. In addition, it would accord with the Framework that development should seek to create places that promote health and well-being, with a high standard of amenity for existing and future users (paragraph 127).

Other Matters

16. I have noted the other developments drawn to my attention by the appellant. However, the residential development permitted elsewhere have different development and locational characteristics to the appeal scheme. On the basis of the limited evidence provided I am not convinced that the circumstances are

compellingly similar to the appeal proposal. As a consequence, whilst I have taken these other examples into account, they do not materially alter my conclusions on the appeal proposal.

17. I have noted the issues raised by the appellant regarding the way in which the application was processed by the Council. However, these are a material consideration to which I can attach only limited weight in making this decision.
18. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the additional new family-sized dwelling, the scheme's design and the efficient use of land on a small site within an accessible location. While I have given them some weight in favour of the appeal, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

19. Notwithstanding my findings on the lack of significant harm to the living conditions of the future occupiers of the proposed dwelling, this does not outweigh the harm found to the character and appearance of the area and the living conditions of the occupiers of the neighbouring properties. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR