



Appeal Decision

Site visit made on 25 August 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2020

Appeal Ref: APP/B0230/W/20/3249048

Land to the rear of 247-249 Park Street, Luton, Bedfordshire LU1 3HQ

- 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 S Rafferty of Newcastle Properties Ltd against the decision of Luton Council.
 - The application Ref 19/01148/FUL, dated 20 August 2019, was refused by notice dated 22 October 2019.
 - The development proposed is the construction of 2 no. one bedroom dwellings plus associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - (i) whether the proposal provides for suitable living conditions for the occupants of the dwelling with particular regard to the quality of external amenity space and privacy;
 - (ii) the effect of the development on the living conditions of the occupiers of the adjoining residential properties with particular regard to outlook and light; and
 - (iii) the effect of the development on the character and appearance of the area; and
 - (iv) whether the proposal would provide a suitable housing mix for Luton.

Reasons

Living conditions – appeal dwellings

3. The appeal dwellings would be provided with a small amenity area to the rear of each dwelling, together with some space to the side of each property. It is common ground between the main parties that the amount of external amenity space provided is acceptable, and I have no reason to disagree with that assessment.
4. The key issue is whether it would be of a sufficient quality given its shape and proximity to the existing buildings.

5. In respect of the dwelling closest to Nos 247 and 249, the amenity area would be dominated by both the existing and proposed dwellings. Furthermore, the area would be partially overlooked from the ground floor rear facing French doors from 245 Park Street. This is particularly the case given that the appeal site is set at a lower land level than the existing development.
6. In addition to this, the window on the first-floor rear elevation of No. 247 would also give the perception of overlooking, although from the information before me this window currently serves as a storage room to the residential accommodation. Taking these factors into account, I consider that the amenity area for this dwelling would provide a poor living environment for its future occupants as a result of a lack of privacy and poor outlook.
7. In respect of the other dwelling, the rear amenity area would be around 11 metres away from the French doors of No. 245 with the rear of No. 247 being slightly closer. As such, I consider that the existing built form would not appear to be overly dominant to the future occupiers of this dwelling. I am also conscious that there is a further amenity area to the side of this property which would also provide for private space which would not be overlooked by any other property. These factors, in combination, lead me to the view that the amenity area for this property would be acceptable.
8. The Council have referred to Policy LLP15 of the Luton Local Plan 2011-2031 (2017) (LLP) in its reason for refusal relating to this issue. However, this policy does not specifically deal with matters relating to the living conditions of the future occupiers of the development and therefore I give this very little weight in the consideration of this issue.
9. For the above reasons, the dwelling closest to Nos. 247 and 249 Park Street would not be provided with suitable living conditions for its occupiers as a result of its outdoor amenity area. The proposal would therefore be contrary to Policies LLP1 and LLP25 of the LLP which amongst other matters seek to permit sustainable development and to ensure that proposals are of a high quality design and demonstrate adherence to the best practice principles of urban design, including ensuring adequate privacy. It would also be at odds with the overarching design aims of the National Planning Policy Framework (the Framework).

Living conditions – occupiers of neighbouring dwellings

10. The appeal development would be located on land which appears to be used (or last used) as either domestic garden (rear of No. 247) or as a parking area (No. 249).
11. The new dwellings would be sited at a slight angle to the side boundary with No. 245 at a distance of between two and three metres. Given the two-storey height of the proposed dwellings, in combination with their width and position in proximity to the boundary, they would appear as a dominant feature from the rear garden of No. 245. To my mind, this would have an unacceptable adverse impact on the outlook enjoyed by the occupiers of No. 245 when they utilise their rear garden in particular. Whilst I accept that the site is located within an urban environment, that does not justify the level of harm which would result.

12. In addition to the above, the proposal would result in the loss of a large proportion of the rear garden of No. 247. That said, the Council have not provided me with an appropriate garden size which No. 247 should have.
13. From the limited evidence before me, and what I observed at my site visit, there would still be an amenity area to the rear of No. 247, together with the space between Nos 247 and 249. In combination, these would appear to provide some space for the occupants of No. 247.
14. I am also conscious that views from the rear of No. 247 would not be directly obstructed by the new dwellings and therefore there would be still some degree of outlook from the rear facing windows of this property. Taking these factors into account, and in the absence of any specific guidance from the Council, I consider that this should not weigh against the proposal.
15. Turning to the concerns over the potential loss of light, the proposed dwellings would not result in any significant loss of sunlight given their position in relation to sunrise through to sunset.
16. In respect of daylight, the proposal would be located around 6 metres from the closest window of No. 247 and a greater distance to the ground floor French doors to No. 245. However, the building would not be directly in-front of these windows and I consider that any loss of daylight to these rooms would not be significant.
17. In addition to this, given the open aspect of the gardens to the west of No 245, I consider that there would not be any significant loss of daylight to the rear garden area of No. 245 either.
18. The Council has also raised concerns over the impact of the development on the occupiers of 243 Park Street. However, whilst the development would have some impact on outlook and light, this would not be to such an extent that would justify the withholding of planning permission. This is particularly the case given the distance between the appeal dwellings and the rear garden area of No. 243.
19. For the above reasons, the proposal would harm the living conditions of the occupiers of 245 Park Street and would be contrary to Policies LLP1 and LLP25 of the LLP which amongst other matters seek to permit sustainable development and to ensure that proposals are of a high quality design, including adherence to the best practice principles of urban design to help create quality places. It would also be at odds with the overarching design aims of the Framework.

Character and appearance

20. The appeal site is located in a mixed-use area with commercial, educational and residential uses being all within proximity of the site. The appeal development would introduce two new dwellings which would front onto Osbourne Road. The Council have not raised any objection to the detailed design of the dwellings, which incorporate a contemporary approach to traditional housing, and I have no reason to disagree with that view.
21. The existing building at No. 249 is dual aspect and has active frontages to both Park Street and Osbourne Road. As such, the existing building successfully

turns the corner and as a result a new building on the appeal site would not appear out of place in the streetscene of Osbourne Road.

22. Whilst an additional building would inevitably result in an increase in built form, it is clear to me that given the design characteristic of the appeal proposal it would not appear out of place. Similarly, given the space to either side of the appeal building it would not appear to have been squeezed into the available space in the street. In that sense, the development would successfully assimilate into the current streetscene.
23. Notwithstanding that, I have already found that the proposal would not provide suitable living conditions for its future occupiers and would adversely affect the living conditions of the occupiers of No. 245 principally as a result of the siting of the dwellings close to the rear boundary of the site. To my mind, this is uncharacteristic of the prevailing form of residential development in the area. As such, it would be detrimental to the overall character of the area as a result of the over-intensive form of development of the site. Whilst I accept that the level of harm is not significant, nevertheless some harm would result.
24. For the above reasons the proposal would harm the character and appearance of the area contrary to Policies LLP1, LLP15 and LLP25 of the LLP which amongst other matters seek to permit sustainable development and to ensure that proposals are of a high quality design which does not result in the over-intensification of the site and that quality places are created. It would also be at odds with the overarching design aims of the Framework.

Housing mix

25. From the evidence before me, there has been a significant over delivery of one-bedroomed properties since 2011 when compared to the identified need in the Strategic Housing Land Availability Assessment (2018). That said, the Appellant has drawn my attention to the Strategic Housing Market Assessment which identifies that development activity continues to be concentrated on the provision of smaller properties reflecting the delivery of flatted accommodation.
26. Whilst it is clear that there has been a significant over-supply of one bedroomed accommodation, the evidence suggests that this is as a result of a large number of flats being built. In addition to the above, the two policies which the Council have referred to in their reason for refusal on this issue do not prevent further one-bedroom properties per se.
27. Given that the proposal is for 2No. one-bedroomed houses, which includes both on plot parking and amenity areas, I consider that this is a type of accommodation which should be supported.
28. For the above reasons the proposal would contribute to a range of differing housing types in the area and would accord with the aims of Policies LLP1 and LLP15 of the LLP which amongst other matters seek to ensure that sufficient housing provision is made. It would also accord with the overarching housing aims of the Framework.

Other matters

29. The Appellant has drawn my attention to a number of other developments in Luton which have been granted planning permission either by the Council or at appeal¹.
30. Whilst I am not aware of the full details of these cases, from the information before me, none of these cases are identical to the current appeal proposal in terms of their relationships with the existing properties that surround them.
31. That said, from what I have seen some of them have similar characteristics (such as 283 Park Road and 48 Thirlstone Road) in that both of these developments appear to be sited to the rear of existing properties in an urban area. Whilst it could be said that these decisions weigh in favour of the proposal, to my mind none of them justify what I consider to be an otherwise unacceptable development. Moreover, each proposal must be considered on its individual merits.

Conclusion

32. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

¹ Including sites at 283 Park Street, 114 Seymour Road, 29 West Hill Road, 38 Black Swan Lane, 371 Beechwood Road, 48 Thirlstone Road, and 1 Mountgrace Road.