
Appeal Decision

Site visit made on 9 February 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2021

Appeal Ref: APP/B0230/W/20/3261238

11 Hollybush Road, Luton LU2 9HG

- 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 Andrew Salamone of A. Sal. Limited against the decision of Luton Council.
 - The application Ref 20/00831/FUL, dated 13/07/2020, was refused by notice dated 24 September 2020.
 - The development proposed is described as, 'erection of six three bed dwellings on land rear of 11 Hollybush road and access formation'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers with particular regard for privacy and noise.

Reasons

Character and appearance

3. The area surrounding the appeal site is characterised by semi-detached dwellings with large rear gardens that give the area a spacious unified feel. While I note the development around Mistletoe Hill and Eaton Green Road, given the location of the site behind the properties of Hollybush Hill and its undeveloped nature, it has a closer relationship to the spacious character and appearance of this road.
4. The proposal consists of six dwellings sited near the rear gardens of a number of properties located at a bend in the road. The scheme would not only include the erection of two storey dwellings, but also significant areas of hardstanding and driveways that would further urbanise the area. Therefore, while I note the surrounding properties, the scheme would harmfully alter the spacious character of the area.

5. In addition, given their siting and height, the dwellings would appear prominent from the rear of the surrounding properties. Their arrangement around the corner of the cul de sac would result in gardens that would be significantly smaller than many others along the road. Therefore, the proposed properties would appear overdeveloped for the size of the plots given the spacious character of the surrounding area. Accordingly, the scheme would be an unacceptable departure from the prevailing pattern of development.
6. I acknowledge the evidence regarding plot densities and note that the scheme would not conflict with the Council's requirements in this respect. I also recognise that additional land has been incorporated into this scheme compared to the previous proposal. However, since the proposed gardens would be significantly smaller than those of the majority of properties along Hollybush Road, these matters do not override the harm to spaciousness identified above.
7. Consequently, the proposed development would harm the character and appearance of the area. Therefore, it would conflict with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011 -2031 Adopted November 2017 (LP) which together require, among other things, that all new development preserve or enhance the distinctiveness and character of the area and should not result in the over-intensification of the site. Therefore, it would conflict with the National Planning Policy Framework (Framework) in this respect

Living conditions

8. The properties closest to the rear of the site are Nos 49 and 51 Polzeath Close (Nos 49 and 51). While the evidence refers to No 59 Polzeath Close, from the evidence and my observations during the site visit, this address does not exist and the property in question is No 49. I have therefore assessed the scheme on this basis.
9. The site slopes down away from the dwellings of Hollybush Road. The adjacent properties at Polzeath Close step down a significant distance at the boundary with the site. The rear gardens of Nos 49 and 51 are of a limited depth. Therefore, while I note the distance between these properties and the proposed dwellings, since the proposed dwellings would be two storeys, and given the limited depth of the rear garden of Plot 4 of the proposal in particular, there would be unacceptable overlooking from the upper windows of the dwelling at Plot 4 towards the rear windows and private amenity area of Nos 49 and 51.
10. While the proposed fence along the rear boundary may partly mitigate the harm in terms of privacy, it would not fully prevent overlooking from the upper windows of the proposed dwelling to the rear windows of Nos 49 and 51. Moreover, even if a taller fence were proposed to fully mitigate the harm, given the change in ground level and limited depth of the rear gardens of Nos 49 and 51, this would unacceptably harm the outlook from the neighbouring properties.
11. While screen planting could be introduced and secured via a suitably worded condition, there can be no certainty, particularly during the winter months, that no breach of privacy would occur. As such, there is no certainty that a condition would adequately mitigate this harm.

12. The proposed access would run between Nos 11 and 13 Hollybush Road (Nos 11 and 13). The number of trips generated by the coming and going of vehicles from the six dwellings would potentially be significant.
13. The Acoustic Assessment submitted by the Appellant recommends the use of acoustic fencing along the access to mitigate the impact of noise and disturbance resulting from the scheme. While the Council states that no calculation of the screening potential of noise barrier is provided, the document states that the fencing should be absorptive acoustic fencing with a minimum acoustic performance of 20dB. Moreover, the data indicates that the predictions of the noise from the 12 vehicle movements over the hour period would be below the lowest noise levels for the daytime once the acoustic fencing is accounted for.
14. The proposed parking areas and dwellings would be a significant distance from the existing dwellings along Hollybush Road such that the neighbouring occupiers would be unlikely to experience undue noise and disturbance from the proposed dwellings themselves.
15. As such, I am persuaded that the impact of general noise and disturbance arising from the proposed access could be adequately mitigated via a suitably worded condition requiring the use of adequate acoustic fencing.
16. Consequently, the proposed development would unacceptably harm the living conditions of neighbouring occupiers with particular regard for privacy. Therefore, it would conflict with paragraph 127 of the Framework which seeks a high standard of amenity for existing users.

Other Matters

17. I note the Government's objective of significantly boosting the supply of homes, the Framework's support of the development of under-utilised land and the evidence regarding the efficient use of land as well as the identified need for large family dwellings. I also acknowledge that the scheme could be implemented quickly and the sustainability of the location. However, given the unacceptable effect of the scheme on the character and appearance of the area and the living conditions of neighbouring occupiers with regard for privacy identified above, these matters do not override the harm identified and have not altered my overall decision.
18. I note the planning permissions granted at Bampton Road and Wingate Road. However, since these schemes were for bungalows in different locations to the appeal site, they do not form a direct comparison with this scheme. I acknowledge the two proposals at Arundel Road. However, both were determined under a different development plan and in a different location to the appeal site such that they also are not directly comparable to this scheme. In any event, each case must be determined on its individual merits.

Conclusion

19. For the reasons given above, the appeal is dismissed.

R Sabu INSPECTOR