



Appeal Decision

Site Visit made on 5 May 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2021

Appeal Ref: APP/B0230/W/20/3264496

47 Rosslyn Crescent, Luton LU3 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr J Hamidi against the decision of Luton Borough Council.
 - The application Ref: 20/01143/FUL, dated 18 September 2020, was refused by notice dated 6 November 2020.
 - The development proposed is construction of a new, detached dwelling in the rear garden of the existing house.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a new, detached dwelling in the rear garden of the existing house at 47 Rosslyn Crescent, Luton LU3 2AT in accordance with the terms of the application, Ref: 20/01143/FUL, dated 18 September 2020, and the plans submitted with it, subject to the conditions on the attached Schedule A.

Main Issues

2. The main issues in this case are:
 - The effect of the proposed development on the character and appearance of the area;
 - The living conditions of future occupants, with particular regard to privacy, noise and disturbance and outdoor amenity space; and
 - The living conditions of neighbouring occupants, with particular regard to privacy, outlook and noise and disturbance.

Reasons

Character and appearance

3. The appeal property is a semi-detached dwelling located in a mainly residential, late twentieth century suburban area. The host stretch of properties is characterised by two-storey, mainly semi-detached dwellings. A variety of hip and gable pitched roof forms, red and multi brick materials, and some detached dwellings add some diversity to the townscape.
4. The proposed bungalow would sit beyond the prevailing radial flow of housing around the southern curve of Rosslyn Crescent. However, the relatively wide fan-shape and location towards the apex of the crescent together give No 47's plot an individualistic character. While the garden space would be reduced, this individualistic plot shape would accommodate the proposed dwelling due to the following combination of factors.

5. The set back of the proposed building from the street, towards the broader end of the fan-shaped plot, and the presence of the public footpath corridor to the south would help separate the proposed building from neighbouring houses. The proposed dwelling would be subservient to the host building and would be height-limited given its pitched roof, bungalow form. Adequate garden space would be provided for the new and host dwelling. Moreover, the proposed materials of brick walls, tile roofing and PVC windows and doors would blend in with the local palette. Consequently, the somewhat bespoke proposal would assimilate acceptably into its setting.
6. I therefore conclude that the proposal would not harm the character and appearance of the area. As such, it would not conflict with Policies LLP1, LLP15 and LLP25 of the Local Luton Plan 2011-2031 (2017) (LP), which together seek to ensure, among other things, that development complements local character.

Living conditions of future occupants

7. The obliqueness of views from neighbouring houses to the proposed dwelling, combined with the extent of retained garden space on site and in the locality, and vegetation along the adjoining public footpath corridor would help to safeguard the privacy of future occupants of the proposed development.
8. The proposed two off-street parking spaces for the host dwelling are unlikely to generate a significantly large volume of vehicle movement. Furthermore, on the north-eastern elevation of the proposed bungalow, facing towards these parking bays, fenestration would be limited. Off-street parking bays in the vicinity of houses is not an unusual suburban feature. Also, the proposed layout allows scope for a low perimeter wall or fence to add to the sense of separation between the proposed dwelling and parking. As such, within the compact suburban residential context, the parking is unlikely to cause harmful levels of noise and disturbance to future occupants of the proposed dwelling.
9. It is undisputed that the amount of private external amenity space for the proposed dwelling would meet the minimum standards set out within Appendix 6 of the LP. Furthermore, the fan shape of the appeal site, which widens out towards the south of the plot, adjacent to neighbouring outdoor space, would facilitate daylight access to the proposed dwelling, while providing a choice of sunnier and more shaded garden space. Consequently, an intimate, manageable and usable area of private external amenity space would be provided for the proposed dwelling.
10. In conclusion, the proposal would not harm the living conditions of future occupants in terms of privacy, noise and disturbance and outdoor amenity space. As such, it would not conflict with Policies LLP1 and LLP25 of the LP, which together seek to ensure that development safeguards living conditions of residents.

Living conditions of neighbouring occupants

11. The obliqueness of views between the main fenestration of the proposed dwelling and houses at No 47 and 49a Rosslyn Crescent, combined with the sense of retained garden space and containment of the proposed building to bungalow form, would help safeguard the privacy and outlook of neighbouring occupants.

12. The proposed dormer window would be around 22m from the nearest part of the rear garden of No 9 Midhurst Gardens and approximately 28.5m from the latter's rear elevation. In combination with the screening effect of intervening boundary walls, fencing and vegetation along the public footpath corridor these separation gaps would help to safeguard the privacy of occupants of this dwelling.
13. The proposed two bedroom dwelling is unlikely to generate a significantly large scale of vehicle movement. Furthermore, space for off-street parking already exists at the front of adjoining properties, and to the side of No 47 in the vicinity of the proposed access to the new dwelling. As such, within the suburban residential context it is unlikely that the latter would generate a harmful level of vehicular noise and disturbance to occupants of neighbouring properties.
14. I therefore conclude that the proposal would not harm the living conditions of neighbouring occupants in terms of privacy, outlook, noise and disturbance. As such, it would not conflict with Policies LLP1 and LLP25 of the LP, which together seek to ensure that development safeguards the living conditions of residents.

Other Matter

15. The proposal would include off-street parking bays and the Local Highway Engineer has raised no objection to the scheme. In the light of the above, I find that the proposal would not be contrary to Policies LLP31 and LLP32 of the LP in respect of parking.

Conditions

16. The conditions suggested by the Council have been considered against the tests of the National Planning Policy Framework and advice provided by Planning Practice Guidance. They have been broadly found to be reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision and conciseness. Conditions regarding timeliness and adherence to the submitted plans are attached in the interests of precision. Conditions relating to materials, parking area, landscape scheme and permitted development are required to safeguard the character and appearance of the area. Conditions regarding window openings and construction management are attached to safeguard the living conditions of neighbouring occupants.

Conclusion

17. The proposed development would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

William Cooper

INSPECTOR

Schedule A) 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 strict accordance with the following approved drawings: 6530-03 Location Plan; 6520-04 Block Plan; 6520-09 Layout; 6520-10 Proposal; 6520-11 Streetscene.
- 3) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority details of external materials to be used in the construction of the development hereby permitted. The measures shall be implemented as approved prior to occupation of the development and retained thereafter.
- 4) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority details of surfacing and drainage of the car parking area. The car parking area shall be implemented as approved prior to occupation of the development and the approved measures retained thereafter.
- 5) Prior to occupation of the development hereby permitted, full details of hard and soft landscaping, including any boundary treatment, shall be submitted in writing to the local planning authority for approval. The measures shall be implemented as approved prior to occupation of the development and retained thereafter.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order with or without modification) no building, extension or other structure shall be erected, constructed or placed within the curtilage of the dwelling hereby permitted without the prior written permission of the local planning authority.
- 7) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended), (or any Order revoking or re-enacting that Order with or without modification), no additional window openings shall be fitted within the flank elevation of the development hereby permitted without the prior written permission of the local planning authority.
- 8) No development shall take place, including any works of demolition, until there shall have been submitted to and approved in writing by the local planning authority a Construction Method Statement. The Statement shall provide for: (i) delivery, demolition and construction working hours; (ii) the parking of vehicles of site operatives and visitors; (iii) a dilapidation survey demonstrating the condition of the highway, inclusive of crossovers, kerbs and pedestrian footways prior to the commencement of demolition and construction to be used for comparison following the completion of works and first operation of the development; (iv) arrangements for loading, unloading and storage of plant and materials in constructing the development; (v) recycling/disposing of waste resulting from construction works. The approved Statement shall be adhered to throughout the construction period for the development.