



Appeal Decision

Site Visit made on 21 June 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2021

Appeal Ref: APP/B0230/W/21/3270809

75 New Bedford Road, Luton LU3 1DJ

- 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 Mrs Zainab Ali against the decision of Luton Borough Council.
 - The application Ref 19/01373/FUL, dated 16 October 2019, was refused by notice dated 11 February 2021.
 - The development proposed is new two storey dwelling using existing access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon the living conditions of adjoining occupiers, having particular regard to outlook;
 - Whether or not acceptable living conditions would be provided for future occupiers of the proposed development, having particular regard to privacy; and
 - The effect upon pedestrian safety, having particular regard to the intended access arrangements.

Reasons

Character and appearance

3. The appeal site forms part of the rear garden area that serves No 75 New Bedford Road. It is accessible via Cromwell Road and located within a predominantly residential area. Whilst properties of varied type, size and design comprise the site's surroundings, buildings are typically positioned towards the frontages of their plots and thus in proximity to the highway. When also noting various elements of established planting close by, the site occupies a location to the rear of frontage development that is often open, spacious and green in its makeup.
4. The proposal involves the erection of a two-storey detached dwelling. Notwithstanding associated areas of external amenity space to be provided, the dwelling would appear as a substantial addition to the site. Most particularly due to its height, the new building would unacceptably erode the verdant spaciousness that exists at and in proximity to the site. Indeed, the dwelling

would appear as a discordant addition and fail to suitably respect the local pattern of development that is typically in place.

5. It has been brought to my attention that an application for a three-storey block of flats at the site was historically submitted and subsequently refused permission based upon, I understand, several different grounds. However, whilst downsized when compared to the previous flatted scheme, it remains my responsibility to consider the proposal now before me upon its own individual merits.
6. For the above reasons, the proposal would cause harm to the character and appearance of the area. The scheme conflicts with Policies LLP1, LLP15 and LLP25 of the Local Luton Plan 2011-2031 (adopted November 2017) (the Local Plan) and with the National Planning Policy Framework (February 2019) (the Framework) in so far as these policies require all new development in the Borough to contribute to enhancing a sense of place and preserving or improving the character of the area.

Living conditions – adjoining occupiers (outlook)

7. The site is situated in proximity to the rear of various surrounding residential dwellings. However, the new dwelling would be set away from the appeal site's various boundaries and from any neighbouring or nearby residential property/garden space. Notwithstanding my findings in a character and appearance sense, the dwelling would not be experienced as visually intrusive to the detriment of neighbouring living conditions.
8. For the above reasons, the proposal would not cause harm to the living conditions of adjoining occupiers, having particular regard to outlook. In the specific context of this main issue of the appeal, the scheme satisfactorily accords with Policies LLP1 and LLP25 of the Local Plan and with the Framework in so far as these policies seek to encourage healthy places.

Living conditions – future occupiers (privacy)

9. As reported in its Case Officer report, the Council has specifically identified that the proposed external amenity areas would be directly overlooked by neighbouring properties. This would appear to be the focus of the Council's concerns in a privacy context and I shall consider the merits of this main issue on this basis.
10. The site is situated in an urban environment where mutual overlooking between neighbouring properties already exists to some extent. Realistic privacy expectations must be guided by these present circumstances. The site is set away from the internal areas of neighbouring properties and I am unpersuaded that unacceptable standards of privacy would avail for future occupiers. Indeed, useable and suitably private external areas of not insignificant expanse would be provided. For the avoidance of doubt, I am also satisfied that an appropriate standard of outlook would serve future occupiers.
11. For the above reasons, acceptable living conditions would be provided for future occupiers of the proposed development, having particular regard to privacy. In the specific context of this main issue of the appeal, the scheme satisfactorily accords with Policy LLP25 of the Local Plan and with the Framework in so far as these policies set out that new housing shall be delivered whilst minimising overlooking.

Pedestrian safety

12. The appeal site is served by an existing shared access (the access) that provides a route to the rear of several Cromwell Road properties. The access would offer frontage access to the newly proposed dwelling. Thus, most particularly in terms of anticipated pedestrian movements, the scheme would realistically lead to an intensification of the access's use.
13. It was apparent upon inspection that the access does not contain specific provisions for pedestrians (such as a footway) and is of restricted width. However, it is not so narrow to necessarily prejudice simultaneous pedestrian and vehicular movements. Furthermore, a clear line of sight exists between Cromwell Road and the main body of the appeal site, which would promote the availability of realistic and safe opportunities for pedestrians to undertake evasive actions if necessitated by traffic movement(s) along the access.
14. Subject to on-site measures being installed to control traffic speeds along the access (in accordance with advice raised by the Highway Authority), which I am content could suitably be secured via planning condition should the appeal be successful, I find that the proposal would have an acceptable effect upon the safety of users of the on-site access.
15. For the above reasons the proposal would not prejudice pedestrian safety, having particular regard to the intended access arrangements. The scheme satisfactorily accords with Policy LLP31 of the Local Plan and with the Framework in so far as these policies set out that proposed developments shall reduce the safety risk to motor vehicles, non-motorised and vulnerable users.
16. For the avoidance of doubt, Policy LLP32 of the Local Plan is of limited relevance to this main issue. This is because it is a policy that specifically focusses upon parking as opposed to the provision of safe access.

Other Matters

17. I have noted objections/concerns raised by interested parties with respect to matters including the effect upon the privacy of adjoining occupiers, possible loss of light, potential noise and disturbance, drainage, parking, vehicular access issues (including with respect to emergency vehicles) and the construction phase of development. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
18. The proposal would deliver an additional housing unit and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. However, an additional dwelling would not make a noticeable difference to the overall housing land supply position in the Borough. I thus attach limited weight to the proposal's benefits in this sense. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. However, these benefits also attract limited weight due to the modest scale of development under consideration.
19. The contributions associated with the delivery and subsequent occupation of a single dwelling would be modest and would not outweigh the significant harm that I have identified would be caused to the character and appearance of the

area. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

20. Whilst I have found that the proposal would not cause harm to the living conditions of adjoining occupiers (having particular regard to outlook), would provide acceptable living conditions for future occupiers (having particular regard to privacy) and would not prejudice pedestrian safety, I have identified that significant harm would be caused to the character and appearance of the area. That harm is the overriding consideration in this case.
21. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR