



Appeal Decision

Site Visit made on 13 September 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/B0230/W/21/3273031

Former Telephone Exchange, land adjacent to 188 Barton Road, Luton LU3 2BE

- 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 M Ahmin against the decision of Luton Borough Council.
 - The application Ref 21/00034/FUL, dated 11 January 2021, was refused by notice dated 9 March 2021.
 - The development proposed is demolition of existing building and erection of 2-bedroom bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area;
 - The effect of the proposed development upon highway safety;
 - Whether the proposed development would provide acceptable living conditions for future occupants with regard to privacy; and
 - The effect of the proposed development upon the living conditions of existing occupiers with regard to outlook, noise and disturbance.

Reasons

Character and appearance

5. The appeal site is formed of a detached former telephone exchange building located to the rear of dwellings. The site is accessed via a track sited between two dwellings which also serves garages. To the north is Chapel Close a cul-de-sac comprising dormer bungalows with short gardens which back onto the site. These dwellings have first floor dormer windows in the rear roofs which overlook the site. There is currently inter-visibility between the former telephone exchange and surrounding properties and gardens.
6. The local area has no uniformity and is made up of dwellings of differing architecture, varying plot sizes and shapes and set backs from the highway. The area also includes small cul-de-sacs and development to the rear of houses.
7. The development would replace the existing structure with a single storey dwelling. The dwelling whilst larger would not be out of scale with buildings in the surrounding area. The layout and size of the proposed dwelling would be commensurate with dwellings in the local area reflecting their scale, plots and gaps between buildings. The proposal would not be harmful to the area's character and appearance given the architectural diversity and the varying plot shapes and sizes that exist locally.
8. I conclude that the proposed development would not unacceptably harm the character and appearance of the area. It would accord with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan (2017) which, amongst other things, require new development to preserve or enhance the character of the area and respond positively to townscape and site and building context.
9. It would accord with paragraph 130 of the Framework, which amongst other things, seeks to ensure that developments are sympathetic to local character.

Highway safety

10. Given the small-scale residential nature of the proposed development and the modest number of residents I am satisfied that any additional vehicle movements including those from visitors would not be significant. Whilst pedestrians may not currently use the access future residents would have to travel only a short distance along the drive with a clear view of the access and any oncoming traffic. Given this short distance and that vehicles are likely to be travelling at low speeds along it, it is unlikely that users would be unduly inconvenienced or endangered by the lack of a refuge or passing point or any increased use of the drive.
11. Notwithstanding the Council's comments the highway authority has not raised an objection to the planning application. With regard to comments in respect of access for emergency vehicles I note that Bedfordshire Fire and Rescue Service did not object to the proposal with regard to the access or on safety grounds. There is no compelling evidence before me that would lead me to a different conclusion.
12. The proposed development would include two car parking spaces. I have considered the swept path diagram and Transport Statement and find that cars would be able to enter the site, manoeuvre within it and exit in forward gear.

13. As such, I am satisfied that the proposed development would not compromise highway and pedestrian safety. It would accord with LLP Policies LLP31 and LLP32 which, amongst other things, seek to reduce safety risks to motor vehicles, non-motorised and vulnerable users and adequate parking provision.
14. It would also accord with paragraphs 110 and 111 of the Framework which, amongst other things, require development to include safe and suitable access for all and which set out that development should only be prevented or refused where there would be an unacceptable impact on highway safety.

Living conditions for future occupiers

15. The Technical housing standards – nationally described space standard sets out the minimum gross internal floor areas for new dwellings. Despite the Council's contention there is no substantive evidence before me to indicate that the office would be occupied as a bedroom leading to additional occupants. The overall floor area of the proposed dwelling would accord with guidance for a 2-bedroom 3 person dwelling and as such would provide a satisfactory standard of accommodation. Moreover, each habitable room would be served by windows providing outlook, daylight and sunlight.
16. Even if the development were to be occupied by 4 persons, I am not persuaded that a shortfall of 2sq.m would not provide adequate living conditions for future occupiers.
17. I acknowledge that properties in Chapel Close are in close proximity of the site. However, the site already experiences overlooking from the existing windows of neighbouring properties. Whilst I accept that there would be a degree of overlooking, in this context, this would not result in significant harm to the living conditions of future occupiers given that views would be largely screened by the proposed boundary treatment, which is common in gardens, and the position of the dwelling. Views from upper windows would be oblique and limited to a small area to the rear of the garden preventing any undue loss of privacy.
18. As such, I find that the proposed development would provide future occupants with satisfactory living conditions. It would accord with LLP Policies LLP1 and LLP25 which, amongst other things, seek to deliver new housing with external amenity space and access to privacy. It would also accord with paragraph 130 of the Framework which, amongst other things, seeks to ensure developments provide a high standard of amenity for future users.

Living conditions of existing occupiers

19. The proposed development would be compatible with neighbouring uses and I have no reason to believe that a single dwelling and associated traffic would lead to an unacceptable impact upon living conditions of nearby occupiers in respect of noise and disturbance.
20. The proposed dwelling would be sited along the boundary and in close proximity to No 6 and 7 Chapel Close. Taking into account their short garden lengths the proposed height and position of the development in very close proximity to the rear of these properties would be visually intrusive severely diminishing the living conditions of existing occupiers in terms of loss of outlook. The proximity of the development would therefore have a significant

overbearing and overshadowing effect on the occupiers of these properties and their amenity space.

21. I conclude that the proposed development would result in significant harm to the living conditions of existing occupiers of No 6 and 7 Chapel Close contrary to LLP Policies LLP1 and LLP25 which, amongst other things, require new housing to minimise overshadowing and loss of light. It would be contrary to paragraph 130 of the Framework which, amongst other things, seeks to ensure that developments have a high standard of amenity for existing users.

Other Matters

22. I acknowledge that the proposed development would redevelop a brownfield site and would be located within an accessible location with convenient access to local services and facilities. However, this does not outweigh the harm that I have identified.
23. The proposal would also add to the general availability of local housing in the area. However, I have not been made aware of any pressing housing need that would justify a scheme that I have found to be harmful.
24. The potential deterioration and dereliction of the building is not justification for a scheme that I have found to be harmful.
25. I appreciate that the appellant has attempted to overcome concerns previously raised, but the proposal would still harm the living conditions of existing occupants.
26. The Council have referred to a previous appeal decision for a dwelling on the site. From the details before me, it appears that the previous appeal related to an outline application with a number of matters reserved for future consideration. Whilst I have found against the appellant there are material differences between the previous scheme and the proposal before me. In any event, every appeal must be considered on its own merits, as I have done. The previous Inspector's decision does not alter my conclusions on the main matters.

Conclusion

27. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR