
Appeal Decision

Site visit made on 10 November 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/B0230/W/21/3274721
22 Mendip Way, Luton LU3 2JL

- 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 Martin O'Neill against the decision of Luton Council.
 - The application Ref 20/01575/FUL, dated 17 December 2020, was refused by notice dated 19 March 2021.
 - The development proposed is erection of a two bedroom detached dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the area, and
 - (ii) the living conditions of the occupiers of the neighbouring property at No. 22 Mendip Way with particular regard to privacy and outlook.

Reasons

Character and appearance of the area

3. The appeal site forms part of the garden area at the side of No. 22 Mendip Way (No. 22) a two storey semi-detached property that occupies a prominent corner plot. The proposal would involve the construction of a two storey detached dwelling with provision of two parking spaces and ancillary works.
4. The appeal site is located in a mature well-established residential area, typically characterised by two storey semi-detached dwellings set back from the road behind front gardens/driveways. The properties are relatively evenly spaced, of comparable scale and form, with uniform separation distances between them. Where garages and other structures exist between dwellings, these are very low, clearly subsidiary, and have little impact upon the sense of separation. No. 22 being situated on a corner plot has more expansive grounds, which add to the open character and appearance of the area.
5. Whilst visually the design of the proposed dwelling would be acceptable, the scale and two storey form of the proposed building would nevertheless still be a significant addition in this location. Such positioning, on what would be an

atypically narrow plot, would erode the visual gap between the dwelling and the highway, interrupting the established pattern of development and compromise the sense of space and openness in the area.

6. These shortcomings would be exacerbated by the proposal's prominent position, which would be visible from a number of public vantage points along Mendip Way. I therefore consider that the proposed development, by virtue of its scale, siting and layout, would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
7. I have considered the appellant's arguments that the design and layout of the proposed development has been carefully considered and redesigned in response to the previously dismissed scheme on the site¹ in order to minimise any impacts on the area. Whilst the use of matching materials, fenestrations, boundary treatment and landscaping would assist with integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
8. Consequently, I conclude that the proposal would result in harm to the character and appearance of the area. It would be contrary to the overall aims of Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2017 (LP) which, amongst other things, require development proposals to be of a high quality design that create quality places, optimise higher densities and improve or enhance the distinctiveness and character of the area. In addition, the proposal would not accord with the National Planning Policy Framework (the Framework) that developments should seek to secure a high quality of design (paragraph 126) that are sympathetic to the local character (paragraph 130).

Living conditions of the occupiers of the neighbouring property

9. The rear elevation of the proposed two storey dwelling would be set back a short distance from the common shared boundary with the adjacent property at No. 22 Mendip Way. It would be located immediately adjacent to the rear garden at No. 22 and would be separated from the appeal site by a pedestrian access and proposed 2m high fence running along the common shared boundary. The adjacent property at No. 22 currently has largely uninterrupted views from the garden area at the rear over the open garden areas at the rear of the appeal site and the neighbouring properties that provide space and light between the properties.
10. The proposed dwelling would result in a long two storey projection running parallel with the common shared boundary and the garden area at the rear of No. 22. The first floor bedroom window on the rear elevation of the proposed dwelling would be situated in close proximity to the common shared boundary with the rear garden of No. 22. The occupiers of No. 22 would use the garden area to carry out household and leisure activities where they would be observed at close quarters, by the future occupants of the proposed dwelling, when relaxing and sitting out, particularly during the summer months.
11. Given the siting and design of the proposed dwelling and the separation distance between the properties, I consider the proposal would result in an unacceptable level of overlooking and loss of privacy to the rear garden of

¹ APP/B0230/W/17/3173759

- No. 22 and introduce a dominant and overbearing two storey structure in close proximity to the shared common side boundary that would restrict the outlook from the garden area at the rear of No. 22. I therefore consider that the proposal would result in a poor quality living environment and an unacceptable change in the living conditions for the occupiers of the neighbouring property.
12. I have considered the appellant's arguments that the design and layout of the development has been carefully considered and redesigned in response to the Inspectors comments on the previously dismissed scheme in order to provide adequate external amenity space and minimise any impacts on occupiers of the adjacent property. Whilst the position of the first floor bedroom window on the rear elevation of the proposed dwelling and the boundary treatment would reduce the impact of the proposal to some degree, these aspects do not overcome the adverse effects outlined above.
13. I also note the appellant's willingness to carry out further work to safeguard the amenities of the occupiers of the neighbouring property and accept conditions requiring the submission and approval of the changes. This, however, would result in material changes to the proposal before me and in any event, I am required to consider the proposal on the basis of the same details that were before the Council when it made its decision.
14. Consequently, I conclude that the proposed development would result in unacceptable harm to the living conditions of the occupiers of the neighbouring property at No. 22 Mendip Way with particular regard to privacy and outlook. It would be contrary to Policies LLP1 and LLP25 of the LP which seek, amongst other things, to ensure that development creates quality places that do not adversely affect the amenity of nearby occupiers. In addition, it would not accord with the Framework that development should seek to create places that promote health and well-being, with a high standard of amenity for existing and future users (paragraph 130).

Other Matters

15. I have considered the appellant's comments regarding the lack of formal objections from the occupiers of No. 22 Mendip Way to the appeal scheme. Whilst this maybe so, this does not preclude the proper planning assessment of the impact of the proposal and is not a determinative factor on its own.
16. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the additional dwelling, the scheme's design and the efficient use of land on a small site within an accessible location. While I have given them some weight in favour of the appeal, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR