



Appeal Decision

Site visit made on 5 January 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26/01/2022

Appeal Ref: APP/B0230/W/21/3276443

59 Seymour Road, Luton LU1 3NN

- 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 Mark Llewellyn against the decision of Luton Borough Council.
 - The application Ref 21/00230/FUL, dated 15 February 2021, was refused by notice dated 26 April 2021.
 - The development proposed was originally described as 'Two storey side extension to provide a new two bedroom end of terrace property'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of an end-of-terrace two storey dwellinghouse at 59 Seymour Road, LUTON, LU1 3NN in accordance with the terms of the application, Ref 21/00230/FUL, dated 16 February 2021, subject to the 9 conditions set out in the attached schedule.

Preliminary Matters

2. I have assessed the appeal on the basis of the more accurate description on the Council's decision notice which is included within my decision. However, I have removed the word 'Resubmission' given this is not a description of development.
3. In the period since the appeal was submitted the Government has published the revised National Planning Policy Framework July 2021 (the Framework) which is being brought into immediate effect for the purposes of decision-making. However, there have been no material changes to the requirements in the Framework for development to be well-designed, to add to the overall quality of an area and to provide a high standard of amenity for existing and future users. Therefore, it has not been necessary to go back to the parties for further comments in this particular instance.
4. There were anomalies between Drawing Nos ATK/20/59SR/TP2 (Proposed Floor Plans Rev2) and ATK/20/59SR/TP5 A (Proposed Elevations) which were before the Council when it issued its decision. A ground floor side elevation window serving the proposed kitchen/ dining area was only shown on the floor plan drawing and a first-floor window to the right-hand side of a bay on the front elevation was only shown on the elevation drawing. During the appeal process, the appellant provided amended versions of these drawings on 20 January 2022 which have the same drawing references but now correspond with one another. Given that the aforementioned windows were indicated in part on the original drawings and due to the relative position of the ground floor side elevation window to the height of boundary treatments at No 57 Alton Road, no

party would be prejudiced by me assessing the appeal on the basis of the amended drawings.

Main Issues

5. The main issues are the effect of the proposal on:

- (i) the character and appearance of the area; and
- (ii) the living conditions of occupiers of No 57 Alton Road with particular regard to means of outlook and light.

Reasons

Character and appearance

- 6. The appeal site is located within a residential area, predominantly characterised by two-storey dwellings. It relates to land associated with, and to the side of, a two-storey end-of-terrace dwelling at No 59 Seymour Road. The terraced row that No 59 forms part of is gabled to both ends and consists of dwellings of similar appearance including in terms of their pitched roofs, front bay windows and arched brick headers over their front doors. The neighbouring semi-detached dwellings which face the site on Seymour Road and adjoin the site at Nos 55 and 57 Alton Road are also of traditional design and include bay windows. Overall, there is a pleasant sense of consistency to the scale and appearance of built form within the street scene.
- 7. The front elevation of the dwelling would be of a similar width to, and would align with, the existing dwelling at No 59. It would also incorporate similar features to the other dwellings within the terraced row including a bay projection to its front elevation and a front door with an arched header. The ridge of the dwelling would be slightly set down from that of No 59 thereby corresponding with the sloped topography of the road. As a result, the dwelling would read as a cohesive addition to the front elevation of the terraced row.
- 8. The scheme which was dismissed under the previous appeal¹, was not aligned with the front and rear elevations of the terraced row and incorporated a contrasting hipped roof. The current proposal would sit in line with the dwelling at No 59 and would incorporate a side gable thereby largely replicating the side elevation of the existing end terrace. In combination with the additional space provided in the latest scheme between the building and the side boundary with No 57 Alton Road, I am satisfied these factors would ensure that the development would not appear unduly dominant when appreciated from the lower levels to the south on Seymour Road.
- 9. Taking all the above factors into consideration, I am satisfied that the design before me overcomes the concerns of the previous Inspector and would successfully assimilate into the street scene.
- 10. I conclude, the development would positively respond to the character and appearance of the area. In that regard it would accord with the design and local character requirements of Policies LLP1 (Presumption in Favour of Sustainable Development), LLP15 (Housing Provision) and LLP25 (High Quality Design) of the Local Luton Local Plan 2011 -2031 (2017) (LLP) and the Framework.

¹ Appeal ref APP/B0230/W/20/3253398

Living conditions of occupiers of No 57 Alton Road

11. During my site visit, I was able to appreciate the level and position of the dwelling and garden at No 57 Alton Road relative to the appeal site. As identified by the previous Inspector, due to the rising levels between this neighbouring dwelling and the appeal site the rear boundary treatments and the flank elevation of the garage at No 57 create a means of enclosure around twice the height of a typical two-metre-tall garden fence to the side and rear of this neighbouring garden. Due to its position on higher ground, the existing dwelling at No 59 also appears as tall as a three-storey dwelling when experienced from the rear of No 57.
12. Even accounting for the position of the proposed dwelling on higher ground, its close alignment with the existing terrace would ensure that a substantial portion of the side elevation of the proposal would sit parallel with the garage serving No 57. This means that it would be offset from the main rear aspect and most of the rear garden serving No 57. The more oblique angle would also be supplemented by greater spacing between the side elevation and the shared boundary when compared with the previous appeal scheme. Overall, and having regard to the established levels of outlook to the rear of No 57, these factors would combine to ensure that a suitably open aspect would be retained from the main windows and garden serving No 57.
13. The Council's decision notice also suggests that the proposal would overshadow the property at No 57. No detailed analysis of levels of light been provided by the Council. However, the existing garage at No 57 and the high rear boundary treatments mean that it is likely that the rear part of this neighbouring garden is already overshadowed to some extent. Given the spacing and angle between the proposed building and this neighbouring dwelling, I am not persuaded that the proposal would result in any material loss of light to the rear windows or the garden area closest to the rear elevation of No 57 beyond existing levels.
14. From the evidence before me, it appears that no written representations have been made by occupiers of No 57 raising any concerns regarding levels of outlook or light. Nevertheless, for the reasons set out, I am satisfied that the development would have an acceptable relationship with this neighbouring property.
15. I conclude the development would retain acceptable living conditions for occupiers of No 57 Alton Drive with particular regard to means of outlook and light. In that regard the proposal would accord with Policy LLP25 of the LLP which amongst other things requires that new housing minimises overshadowing/loss of light. It would also adhere to the requirements at Paragraph 130 of the Framework for developments to create places with a high standard of amenity for existing and future users.

Other Matters

16. I have seen the concerns raised by another interested party in respect of the potential relationship of the proposal with the living conditions of occupiers of No 55 Alton Road. I note the Council has raised no such concerns. Given the intervening angle and distance between the proposal and this neighbouring dwelling and garden, I am satisfied that the development would not result in any material loss of privacy or light for occupiers of this neighbouring dwelling.

Any issues relating to the height of existing conifers on the site are a separate matter for the Council to investigate.

17. During the planning application process, the Highway Authority raised a concern that the proposal would remove on-site parking for the existing dwelling at No 59 Seymour Road. As was noted by the Inspector who dealt with the previous appeal, neither Seymour Road or Alton Road have any parking restrictions and on-street parking is prevalent in the area. I concur with the previous Inspector that it would be possible for occupiers of No 59 to safely park in close proximity to the dwelling and that the additional parked cars associated with a single dwelling would be very limited. Therefore, I find no reason to reach a different conclusion in this regard.

Conditions

18. The Council has not suggested any conditions although I have taken the conditions suggested by consultees during the planning application process into consideration.
19. I have attached the standard timescale for implementation and a condition specifying the approved drawings in the interests of certainty.
20. Conditions requiring details of materials and hard and soft landscaping are necessary in the interests of ensuring the finished scheme positively responds to the surrounding built environment. I have also attached conditions to address the Highway Authority's reasonable requests for pedestrian visibility splays to be provided at the site entrance and for details of any extension to the existing dropped kerb to be agreed. The details required by these conditions can be provided prior to commencement of above ground works as this would still allow for the agreed details to be incorporated into the finished scheme.
21. Conditions requiring the parking area shown on the approved drawings to be provided before the development is first occupied is reasonable to prevent any undue pressure being placed upon the public highway for parking. A condition to prevent windows being provided above ground floor to the side elevation of the dwelling facing No 57 Alton Road is necessary in order to protect the privacy of occupiers of this neighbouring dwelling. I have also attached a condition removing permitted development rights given that relative land levels mean that the relationship of any additional development with No 57 would need to be carefully considered as part of a planning application.
22. Given the small scale of the development, the potential for any substantial effects on the surrounding environment or damage to be caused to the public highway during construction is limited. Therefore, I do not consider it reasonable or necessary in this instance to include requirements for a Construction Method Statement or for the appellant to carry out a dilapidation survey of the roads and footways.

Conclusion

23. For the reasons given I conclude that the appeal should be allowed.

M Russell

INSPECTOR

Schedule of 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 accordance with the following approved plans: Drawing Nos ATK/20/59SR/TP2 (Proposed Floor Plans Rev 2 – provided on 20 January 2022), ATK/19/29SR/TP2A (Proposed Rear Amenity Areas), ATK/20/59SR/TP3 (Block and location Plan), ATK/20/59SR/TP5 A (Proposed Elevations – provided on 20 January 2022) and ATK/19/29SR/TP7 (Proposed Roof Plan).
- (3) Prior to commencement of above ground works, details of the materials to be used in the external surfaces of the dwellinghouse hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the approved details.
- (4) Prior to commencement of above ground works, details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - means of enclosure and any retaining structures;
 - planting and hard surfacing materials;
 - drainage provision to prevent surface water from discharging from areas of hardstanding onto the highway; and
 - an implementation programme

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- (5) Prior to commencement of above ground works, precise details of triangular pedestrian visibility splays of 1.8 metres x 1.8 metres to the proposed access point shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the visibility splays shall be provided before the development is first occupied and shall be maintained free of any obstruction to visibility exceeding a height of 600 mm above the existing ground level thereafter.
- (6) Prior to commencement of above ground works, precise details of any extension/ alteration required to the vehicular crossover on the adjoining highway shall be submitted to and approved in writing by the Local Planning Authority. Any such extension/ alteration to the vehicular crossover shall be completed prior to the first occupation of the dwellinghouse hereby approved.
- (7) Before any part of the development hereby permitted is first occupied, the off-road parking area for the dwelling hereby approved as shown on drawing No ATK/19/29SR/TP7 shall be completed in accordance with the details as set out in this planning permission and thereafter shall be kept available for the purposes of parking thereafter.

- (8) No windows shall be inserted above ground floor level to the side elevation of the dwelling facing No 57 Seymour Road at any time.
- (9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no buildings, structures, extensions, alterations, walls or fences of any kind other than those approved under this planning permission shall be erected or made within the curtilage of the dwelling hereby permitted without the prior written approval of the Local Planning Authority.