



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: 27/01/2022

Appeal Ref: APP/B0230/W/21/3276869

1A Wilsden Avenue, Luton LU1 5HL

- 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 Atkinson - Interstar Building against the decision of Luton Borough Council.
 - The application Ref 20/00968/FUL, dated 4 August 2020, was refused by notice dated 17 March 2021.
 - The development proposed is change of use from office/workshop to residential with first-floor and two-storey front and side extensions to create three one-bedroomed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.
3. The Council's decision notice refers to a loss of outlook in respect of its reason for refusal relating to the effect on neighbouring living conditions. However, the delegated report also raises concerns that the proposals would impact on the privacy of neighbouring occupiers. I have therefore taken this into account in defining the third main issue.

Main Issues

4. The main issues are:
 - (i) The effect of the proposal on the character and appearance of the area;
 - (ii) Whether the proposal would provide suitable living conditions for future occupants; and
 - (iii) The effect of the proposal on the living conditions of neighbouring occupiers with particular regard to means of outlook and privacy.

Reasons

Character and appearance

5. Wilsden Avenue is predominantly characterised by groups of two-storey terraced dwellings. Dwellings along the street are similarly aligned and are more often of similar form and appearance. Regular features include hipped roofs to end terraces, bay windows to front elevations and integral open porches with arched surrounds. These repeated design elements give consistency to the street scene. However, the appeal site is occupied by single storey former office/workshop buildings. It is situated close to the junction with Farley Hill and sits within a part of the street scene which includes high boundary treatments associated with the rear gardens of properties on this neighbouring road, a detached garage associated with No 82 Farley Hill, and access tracks serving garage buildings. It therefore reads separately to the more regular pattern of residential development further to the east on Wilsden Avenue.
6. The asymmetric roof design on the proposal would reduce in height to correspond with the sloped topography towards the lower properties on Farley Hill. Towards the side boundary closest to the nearest end-terrace at No 1 Wilsden Avenue, the height of the building would be comparable to the scale of this neighbouring dwelling. The front elevation of the flats would closely align with the front of the terraces to this side of the road. At street level, the front wall with integral bike and bin storage would replace existing high boundary treatments and would sit adjacent to the neighbouring garage at No 82 Farley Hill. Taking all the above factors into account, the development would sit comfortably within this transitional part of the street scene.
7. I conclude, the development would have an acceptable relationship with 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.

Living conditions for future occupants

8. The Government's 'Technical housing standards - nationally described space standard' (published 2015) (the national space standards) requires that one-bedroomed dwellings of a single storey with bed space for two persons have a minimum gross internal floor area of 50m². The proposals would not meet this minimum requirement as flats 1 and 2, as identified on the drawings provided, would be two-person flats with gross internal floor areas of only 45.2m² and 42.6m² respectively.
9. The space within the bedrooms and bathrooms for flats 1 and 2 appears particularly constrained. No evidence has been provided to demonstrate that the bedrooms within flats 1 and 2 would meet the minimum floor area for a double bedroom of 11.5m² as set under the 'Technical requirements' within the national space standards. It is also not clear whether built in storage has been accounted for and this has the potential to further reduce the internal floor area available for day to day living in these flats. Together with the overall deficiencies in gross internal floor area, these matters further persuade me that

the development would not provide an acceptable internal living environment for future occupiers of the development.

10. The main habitable rooms within the flats would include windows to either the front or rear elevation of the building. Therefore, I am satisfied that adequate means of outlook and light would be provided. Even so, this does not overcome the failure to meet the national space standards.
11. I conclude, the development would not provide suitable living conditions for future occupants with particular regard to internal floorspace for flats 1 and 2. In this regard, the development would conflict with the national space standards and Paragraph 130(f) of the Framework which amongst other things requires that developments create places that promote health and well-being, with a high standard of amenity for existing and future users. The conflict with the national space standards and the Framework is a matter to which I afford significant weight in decision making terms.
12. Internal floor areas are not referred to within Policies LLP1, LLP15 and LLP25 of the LLP. Even though I have not therefore identified specific conflict with the policies referenced in the Council's decision with regards to this main issue, this does not overcome the conflict with the national requirements identified above.

Living conditions for neighbouring occupiers

13. The neighbouring two-storey detached dwelling at No 82 Farley Hill is situated at a lower level to the appeal site. This corner plot is served by a generously proportioned rear garden. The garden gently slopes upwards to the boundary with the appeal site where the side elevation of the existing building on the appeal site forms a substantial brick wall rear boundary.
14. The increased bulk and mass of the development would undoubtedly be visible from the rear windows and garden serving No 82. However, this does not on its own necessarily amount to harm. The eaves height of the extended building would remain as existing to this boundary. The sloped profile of the proposed roof towards this boundary and the position of its ridge set away from the garden at No 82 would retain an acceptable degree of relief from the built form of the development. Taken together with the spacious aspect provided by the rear garden to the rear windows serving No 82, I am satisfied that the development would not materially harm levels of outlook for occupiers of this neighbouring property.
15. There are two existing windows on the ground floor side elevation of the building facing towards the garden serving No 82. The proposed floor plan indicates that these windows would be blocked up, however they are shown on the proposed elevations drawing. Given the change of use to residential, a condition would need to be attached requiring these windows to be blocked up in the event of planning permission being granted in order to prevent overlooking of the adjoining garden at No 82. The roof light windows shown to the roof slope facing No 82 would be significantly higher than the floor level of the rooms they would serve and therefore would not result in any loss of privacy for occupiers of No 82.
16. The two-storey side elevation of the proposal would project beyond the rear elevation of the neighbouring end terrace at No 1 Wilsden Avenue. However, having regard to the spacing provided by the intervening access track which

sits between these properties and the oblique angle between the development and the windows to the rear elevation of No 1, I am satisfied that the development would not have a harmful enclosing impact on this neighbouring property.

17. The proposed first floor windows facing No 1 would be a bathroom window and secondary windows serving a lounge/kitchen. Due to the gap between the properties and given that a condition could be attached requiring those windows to be obscure glazed and fixed, I am also satisfied that there would be no loss of privacy for occupiers of No 1.
18. I conclude, the development would have an acceptable relationship with the living conditions of occupiers of neighbouring properties with regards to matters of outlook and privacy. In that regard the development would comply with the requirements seeking to protect neighbouring amenity in Policy LLP25 of the LLP and the Framework.

Conclusion

19. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
20. I have found that the proposal would have an acceptable relationship with the character and appearance of the area and would not be materially harmful to the living conditions of neighbouring occupiers.
21. However, the development would not provide suitable living conditions for future occupiers with particular regard to the provision of internal space for flats 1 and 2. In this regard, it would conflict with the requirements in the national space standards and the Framework. This is a material consideration of significant weight and overriding concern. Consequently, the appeal should be dismissed.

M Russell

INSPECTOR