



Appeal Decision

Site visit made on 19 January 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/B0230/W/21/3280014

2-4 Venetia Road, Luton LU2 7XD

- 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 S Twardochleb against the decision of Luton Borough Council.
 - The application Ref 21/00307/FUL, dated 26 February 2021, was refused by notice dated 18 June 2021.
 - The development proposed is demolition of existing buildings and construction of a two storey building comprising 7 flats.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. During the appeal the plans were amended to exclude a small triangle of land in the north-east corner of the site. This resulted in a slight realignment of the parking spaces. No party would be prejudiced by these changes and therefore I have accepted the amended plans.

Main Issues

3. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) Whether the development would provide acceptable living conditions for its future occupiers in terms of their outlook, noise and disturbance; and
 - iii) The effect of the proposal on the living conditions of the occupiers of Nos. 4a, 6 and 6a with respect to their outlook, privacy, noise and disturbance.

Reasons

Character and appearance

4. The appeal site accommodates some commercial buildings on the east side of Venetia Road. It is positioned between dwellings to the north and commercial units facing Hitchin Road to its south.
5. There are a variety of residential forms in the road including bungalows, and two-storey detached and semi-detached houses. There is also a first floor flat at the rear of No. 611 Hitchin Road which faces Venetia Road. Two bungalows, Nos. 4a and 6a, are located to the rear of No. 6 and are accessed by a

driveway which is within the appeal site and would act as access to the proposed flats. Despite the variety in form, generally the houses in the street are traditional in scale and design. The commercial premises to the south are also of a generally modest scale.

6. Though the proposed building would be two-storey to match the other surrounding buildings, its eaves level and ridge height would both be higher than that of the neighbouring dwelling at No. 6, despite the development being on slightly lower ground, and higher than the building at the rear of No. 611. Moreover, the provision of two front dormers in the roof slope, whilst not an alien design feature locally, would serve to emphasise its height, as would the fenestration design which adds a vertical emphasis. The fact that the building would be set slightly further back from the road than No. 6 and behind a small landscaped area would have little impact on this visual effect.
7. Furthermore, its width would be considerably greater than most of the other buildings in the street. The pair of houses at Nos. 14 and 16, which are located at the northern end of the road, are slightly wider. However, the effect of their width is tempered by their modest height, which appears similar to the other two-storey houses in the road, and their fenestration design which lends a horizontal emphasis in contrast to the proposal. Moreover, the development's distance from Nos. 14 and 16 means the two buildings would not readily be seen together. It is the proposal's contrast, in terms of its height and width, with Nos. 6 and 611 which would be most striking.
8. Overall, due to a combination of its design, height and width the development would appear incongruously dominant in the street scene and would contrast harmfully with the character and appearance of other built form nearby. It therefore would unacceptably harm the character and appearance of the area and hence would conflict with policies LLP1, LLP15 and LLP25 of the Luton Local Plan (2017) which aim to ensure proposals respond to local character and the townscape.
9. The appellant draws my attention to a scheme on Sundon Park Road, where planning permission was granted for a block of 10 flats. While there appear to be some similarities in terms of the scale of the building and surrounding buildings, it is notable that the gap between that development and the nearest neighbouring dwelling to it appears to be greater than in the proposal before me, hence the difference in heights would not be so stark. In any case that scheme is in a different part of Luton and so its wider context may be different.
10. I have also been provided with details of the development recently granted planning permission on land opposite the site to the rear of 609 Hitchin Road. From the plans, while this also would have accommodation at roof level, the development would appear smaller in scale than that proposed by this appeal.

Living conditions – future occupiers

11. Flats 2 and 5 in the proposal would be at ground and first-floor level in the south-west corner of the building with the second bedroom in each flat having a window facing a wall forming parts of flats 3 and 6 respectively. From the plans the gap between the bedroom windows and the wall is just under 2.7 metres. It is considered that at such a short distance, the outlook from the bedroom windows would be severely limited, particularly that at flat 2 from where the full two-storey height of the building would appear oppressive. It is

recognised that the bedrooms served by these windows are not the primary bedrooms in each flat. Nonetheless, any occupier of these bedrooms should expect to have a reasonable outlook. It is also unreasonable to rely on the principle of 'caveat emptor' or 'buyer beware' as such an approach would excuse a failure to provide sufficient amenity in any new dwelling.

12. The window in the second bedroom at flat 3 would face the car-parking area which would be used by all seven flats. It is likely that the occupiers of this bedroom would experience noise from cars manoeuvring in and out of the spaces, people getting in and out of cars, and glare from headlights at night. However, the relationship of ground floor bedrooms facing communal areas is not uncommon in flatted developments.
13. In summary, whilst the development would not facilitate unacceptable noise and disturbance for the future occupiers of flat 3, it would fail to provide sufficient outlook for the occupiers of flats 2 and 5 and so overall would not provide satisfactory living conditions for its occupiers. Consequently, it would conflict with policy LLP25 which aims to secure high quality design, and the National Planning Policy Framework which, in paragraph 130, seeks a high standard of amenity for existing and future users.

Living conditions – neighbouring occupiers

14. The bungalows at Nos. 4a and 6a generally face towards the appeal site. Though the proposal would undoubtedly appear more prominently from the front of these dwellings than the existing single storey buildings on site, there would be a considerable gap between them. Indeed, the gap between flats 1 and 4 and the bungalows would be roughly the same as between the dwelling at No.6 and the bungalows. Furthermore, whilst flats 3 and 6 are closer, they would not be directly in front of either bungalow. As such, it is considered that the building would not appear excessively obtrusive such that the outlook from Nos. 4a and 6a would be unacceptably harmed. The development would also maintain a significant distance from No. 6.
15. Similarly, due to these gaps, the windows in the rear elevations of the development would be a reasonable distance from Nos. 4a and 6a. The perception of overlooking from the first-floor windows would not be dissimilar to the perception from the first-floor and dormer windows at the rear of No.6. In addition, as any views from the windows in the proposal would be of the front of the bungalows, their rear gardens in which they would enjoy most privacy, would remain unaffected. Consequently, the development would maintain sufficient privacy for the occupiers of these two properties. None of the flats would have windows directly facing No.6 such that the privacy of its occupiers would be affected.
16. Turning to the access, there are no windows on the side of No.6 facing the access and the rear garden is bounded by a thick and well-maintained conifer hedge. In that context, whilst there would be an increase in vehicle movements along this access road, it would not be likely to be unacceptably disturbing to the occupiers of No. 6. The fact that the most recent use of the site was for a flooring company, which would have most likely generated traffic throughout the day, also informs my view that any increase in noise from traffic would not be significant. In addition, as traffic generated by the development would not pass close to the bungalows at Nos. 4a and 6a, it is not considered that there would be any undue disturbance to the occupiers of those properties either.

17. As such, the development would not have an unacceptable effect on the living conditions of the occupiers of Nos. 4a, 6a or 6 in terms of their outlook or privacy or by creating unacceptable noise or disturbance. In this regard therefore, it would accord with policy LLP25 which, among other things, seeks to minimise noise and overlooking.

Other Matters

18. The development would make a more efficient use of this brownfield site and would provide a number of 2-bed units. It is not disputed between the parties that there is a need for such units in Luton, though it is not suggested that there is a lack of housing supply generally. The site's location close to the shops and facilities on Hitchin Road is also a benefit as is the economic benefit during the construction period and thereafter. However, I give these factors no more than moderate weight due to the modest quantum of development. Also the site is not currently unattractive which reduces the visual benefit of the development.
19. Though not a concern of the Council, many neighbouring residents have expressed concerns regarding the level of parking provision. As I have found harm in other respects it is not necessary for me to conclude on this matter as it could not be determinative.

Conclusion

20. Although the development would not harm the living conditions of neighbouring residents, it would harm the character and appearance of the area and would fail to provide acceptable living conditions for its future occupants. As a result, it would conflict with the development plan as a whole and there are no other material considerations that support a decision other than in accordance with the development plan. Therefore, for the above reasons, the appeal is dismissed.

Andrew Owen

INSPECTOR