



Appeal Decision

Site visit made on 16 March 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2022

Appeal Ref: APP/B0230/W/21/3282274

49 Oakley Road, Luton, LU4 9PT

- 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 Eoin O'Cearbhaill (Excelsior Land Ltd) against the decision of Luton Borough Council.
 - The application Ref 21/00640/FUL, dated 16 April 2021, was refused by notice dated 16 July 2021.
 - The development proposed is described as "erection of five dwellings (three 3-bed terraces and two 3-bed semi-detached), access, landscaping, and parking and associated works."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has previously granted planning permission for redevelopment of this site with four houses, including two chalet bungalows to the rear of the site. This permission has been referred to by both main parties and is a material consideration in the determination of this appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the living conditions of neighbouring occupiers; and,
 - The effect on the character and appearance of the area.

Reasons

Neighbour living conditions

4. The proposed terrace of three houses to the rear of the appeal site would include six dormer windows to the front of the houses, each serving one bedroom. This would result in significant overlooking of neighbouring properties, including the proposed houses to the front of the site as well as the properties at 47 Oakley Road and 1 Juniper Close which lie immediately to either side of the appeal site. While there would be a significant separation distance between the dormer windows and 47 Oakley Road and the new houses, the rear gardens to each of these houses would be overlooked resulting in a significant loss of privacy to occupiers. The overlooking to 1 Juniper Close would be oblique given that plot is mostly to the side of the

proposed terrace, but there would be some additional loss of privacy to the occupiers of that property as well.

5. The approved scheme included two front dormers to the rear bungalows, but these would serve bathrooms so would typically be fitted with obscured glazing. The appeal proposal would result in a substantially greater degree of overlooking that would cause unacceptable harm to the living conditions of neighbouring occupiers.
6. Due to the proposed front dormers and area of flat roof the proposed terrace would appear bulky above ground floor level. While no higher than the approved bungalows, they would appear more overbearing from neighbouring properties. While most neighbouring properties would be sufficiently distant from the terrace that there would be limited harm from its mass, 1 Juniper Close and its rear garden would face onto a flank elevation of the terrace at a relatively short distance. This would cause harm to the outlook from that property and its garden.
7. The rear of the site would be reached via an access road running along the boundary with 51 Oakley Avenue and 1 Juniper Close. This arrangement is as previously approved, and while the introduction of a third house would result in increased traffic along the road, the noise and disturbance from this could be mitigated with acoustic fencing. This could be controlled by an appropriately worded condition if I were otherwise minded to allow the appeal.
8. The appeal proposal would be harmful to the living conditions of neighbouring occupiers because of the increased overlooking and loss of privacy, as well as through being overbearing and harmful to outlook. It would therefore conflict with Policies LLP1 and LLP25 of the Luton Local Plan 2011-2031 which require, amongst other criteria, that development create high quality and healthy places, and that backland development be avoided where it would give rise to adverse amenity.

Character and appearance

9. The Oakley Road street scene comprises a mix of single-storey and two-storey houses, with the appeal site located towards the end of a run of single-storey dwellings of varied character and appearance. The proposed semi-detached houses to the front of the site would be prominent in the street scene, with front dormers that are not common in the area. However, these houses would be set back from the front elevations of 47 and 51 Oakley Road, both of which have projecting bay windows with gables over, and they would be of a similar height to these neighbouring properties. Given the varied appearance of the properties in the street scene, the appearance of these proposed houses would not be harmful to its character and appearance.
10. The terrace to the rear of the site would be visible from Oakley Road but would not be prominent in the street scene given the significant distance and presence of the proposed houses to the front of the site. They would be seen in the context of other properties visible from the street, including the neighbouring properties on Juniper Close, and would not appear out of keeping in this setting. This would also provide the context for the houses when seen from neighbouring properties, from which the proposed terrace would not appear out of keeping given the surrounding residential properties.

11. The appeal proposal would not therefore be harmful to the character and appearance of the area. It would accord with the relevant criteria of Policies LLP1, LLP15 and LLP25 of the LP. Taken together these require that development be of high quality design to preserve or improve the character of the area.

Other Matters

12. The appellant has expressed concerns about the way the Council dealt with the application. However, this is not a matter for this appeal, which has been determined on its merits and the evidence submitted.
13. The appeal site is within the zone of influence for the Chiltern Beechwoods Special Area of Conservation (the SAC). While the matter has not been raised by the parties, I have a duty under the Conservation of Habitats and Species Regulations 2017 to test if a proposed development could significantly harm the protected features of the SAC. However, as I am dismissing the appeal on other substantive grounds, it is not necessary to address this matter further.

Planning Balance

14. The proposed development would deliver five new homes making efficient use of previously developed land in a sustainable location. This would support the Government's objective of significantly boosting the supply of homes. While there is no indication that the Council has a shortfall in its supply of housing land or its delivery of housing, there is an established need in the Borough for three-bedroom houses, which the development would help in meeting.
15. The appeal proposal would provide generously sized accommodation for each house. It would be in keeping with the character and appearance of the area, and would be carried out using sustainable construction techniques, with electric vehicle charging points provided for each new house.
16. However, the proposed development would cause harm to the living conditions of existing and future occupiers of neighbouring properties through overlooking and loss of privacy and would also be overbearing to the occupiers of 1 Juniper Close. This harm would outweigh the benefits of the proposed development.
17. There are therefore no material considerations, including the earlier permissions for residential development of the site, to indicate that this appeal should be determined other than in accordance with the development plan.

Conclusion

18. For the reasons set out above, this appeal fails.

M Chalk

INSPECTOR