



Appeal Decision

Site visit made on 30 September 2022

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/B0230/W/22/3294883

Land to rear of 122-126 Tennyson Road and land to rear of 1 Uplands Court, London Road, Luton LU1 3RQ

- 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 Land Assist One Ltd against the decision of Luton Borough Council.
 - The application Ref 21/01651/FUL, dated 25 November 2021, was refused by notice dated 28 January 2022.
 - The development proposed is erection of a 3-bed detached dwelling and associated works following demolition of existing garages.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a 3-bed detached dwelling and associated works following demolition of existing garages at land to rear of 122-126 Tennyson Road and land to rear of 1 Uplands Court, London Road Luton LU1 3RQ in accordance with the terms of the application, 21/01651/FUL, dated 25 November 2021, and the plans submitted with it, subject to the conditions in the schedule attached.

Main Issues

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site comprises part of the rear garden of No.1 Uplands Court, London Road and an area of vacant garages accessed from Tennyson Road. I observed on my site visit that the existing garages are largely dilapidated and the site contributes little to the character of the area, save to the overall spacious pattern or grain of development.
4. The appeal site dog legs and it is proposed to demolish six of the existing garages on the northern part of the site and construct a three bedroom detached dwelling. The proposed development would utilise the existing access to the site from Tennyson Road between the Linton Hotel, a large three-storey building, and No.126 Tennyson Road, a semi-detached two-storey dwelling. The access would be widened to create a passing place for vehicles.

5. The appeal proposal comprises backland development. Policy LLP25 of the Local Luton Plan 2011-2031 (2017) (LP) allows for backland development where it would not give rise to an adverse effect on amenity.
6. The west side of Tennyson Road is characterised predominantly by detached and semi-detached two-storey dwellings, with ground and first floor bay windows and a traditional hipped roof form. The dwellings front the road, set behind small front gardens or driveways and are well spaced such that there are clear views to trees and landscaping within generous gardens to the rear.
7. Notwithstanding being widened, the dog leg in the appeal site means that the proposed dwelling would have no direct road frontage to Tennyson Road. It would also have no presence in the streetscene, save glimpsed views between Nos. 122 and 124 Tennyson Road. By utilising an existing access, there would be no material change in the character or appearance of Tennyson Road, and I do not find an absence of a road frontage to be fatal to the proposal.
8. The proposed dwelling would face south, designed with a simple plan form and elevation treatment with a hipped tiled roof, overhanging eaves and a projecting porch. Although the design draws some reference from the surrounding area, notably the roof form, it has a reasonably contemporary design in terms of the pattern of fenestration. However, it would not be viewed as part of the streetscene with neighbouring dwellings and therefore a 'stark contrast' as alleged by the Council would not be apparent. I also note that the Council have recently resolved to grant planning permission for the redevelopment of the Linton Hotel for apartments and this, whilst designed with a hipped roof and gable elements to reflect the prevailing character, similarly has contemporary detailing.
9. The appeal site does not comprise garden land (save a small part of No.1 Upton Court) but would reduce the separation distances between those dwellings fronting Tennyson Road and London Road. The distance between dwellings would nevertheless remain very generous and the proposed dwelling would replace existing built form (albeit dilapidated) on the site. It would not therefore cause harm to the otherwise spacious qualities of the area.
10. Further, the siting of the proposed dwelling in a similar location to the existing garage block means that all of the existing trees on the site, including a row of trees of moderate quality (assessed as Category B) on the southern boundary, would be retained. As a result, the characteristic views from Tennyson Road through to trees and landscaping would remain.
11. I therefore conclude on the main issue that the prevailing pattern of development and open character of the surrounding area would be retained, and the proposal would cause no harm to the character and appearance of the area. Consequently, it would be consistent with the aims of policies LLP1 and LLP15 of the Local Luton Local Plan 2011-2031 (2017) (LP) which, amongst other things, require development proposals to deliver growth and sustainable development and meet the housing needs identified in the Strategic Market Housing Assessment. It would further accord with LP Policy LLP25 because it would be of high quality design, that responds positively to the site context.

Other Matters

12. The Council have referred to two appeal decisions (APP/B0230/W/19/3241576 and APP/B0230/W/21/3273962) but I have no further information before me regarding the nature of these schemes, or their context. Whilst I appreciate the Council consider these support their stance on backland development, I have no way to tell if they are comparable to the scheme before me, and I am mindful that each proposal should be assessed on its own merits and site characteristics.
13. I also note the representations made in respect of noise and disturbance and loss of privacy to existing neighbouring dwellings. The proposed dwelling would replace 6no. garages and would be sited on an east-west axis at least 30m from the rear of houses fronting both Tennyson Road and London Road. The dwelling has been orientated so that its principal outlook is to the north, away from the closest rear gardens of neighbours, with no first-floor windows proposed on the east and west flank elevations. Because of this, there would be no material harm to privacy, nor would a single dwelling result in particular noise and disturbance.
14. Further, the proposed dwelling is unlikely to result in a significant increase in vehicle trips over and above the existing garage use. There is sufficient space on site for a generous drive to accommodate car parking and vehicle manoeuvring, and a bin store is shown on the Proposed Site Plan on the site access, close to Tennyson Road. Whilst I have had regard to these other matters, they do not lead me to a different conclusion.

Conditions

15. I have had regard to the list of conditions provided by the Council. Where necessary, I have amended their wording to ensure that they meet the relevant tests for conditions set out in the National Planning Policy Framework (the Framework).
16. In addition to the statutory time limit for implementation, a condition setting out the approved plans is necessary to provide certainty. Details of external materials, hard and soft landscaping and boundary treatments are required to ensure a satisfactory appearance. It is further necessary to secure tree protection measures to protect the natural environment.
17. A condition requiring the details of surfacing and drainage of the car parking spaces, a requirement for them to be laid out and subsequently retained, and the widening of the access road is necessary in the interests of highway and pedestrian safety. A condition requiring an Electric Charging Point is also necessary to encourage a reduction in vehicle emissions.
18. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance also advises that conditions restricting the future exercise of permitted development rights may not pass the test of reasonableness or necessity.
19. The Council has suggested a condition that removes various permitted development rights afforded to the dwelling hereby permitted. I have been provided with no justification for why such a wide ranging removal of permitted development rights would be necessary. I am not at all persuaded that the

proposed development would only be acceptable should this condition be imposed and consequently the suggested condition has been omitted.

20. Further, I have been provided with no justification as to why the dwelling should be used only by a single family. This condition has also therefore been omitted.
21. Given the location of the proposed dwelling well off the public highway and around 30m from neighbours, an onsite Construction Management Plan is not necessary. However, a condition requiring the proper storage of bins is necessary in the interests of the amenity of neighbours on Tennyson Road.
22. The Council's Highways Engineering Service noted that the existing site visibility remained impaired but because of the reduction in the number of vehicles using the access, it was acceptable. The agreed visibility splay distances are shown on approved drawing 2004033-01 and it is not therefore necessary, in the interests of highway safety, for a further condition to be imposed.

Conclusion

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

R. Jones

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: 2219-01C, 2219-SK05B, 2219-SK06E, 2219-SK10B, 2219-SK11A, 2219-SK12B, 2004033-1 and TCTC-17779-A.
3. Prior to the commencement of above ground works full details of the external materials to be used in the construction of the development hereby permitted shall be submitted in writing to the Local Planning Authority for approval. The development shall be carried out only in full accordance with those approved materials.
4. The car parking for the proposed development as identified on the approved plan No 2219-SK10B shall be laid out and ready for use prior to the first occupation of the development hereby permitted.
5. The existing trees, shrubs and/or hedges to be retained shall be safeguarded against damage or injury by the erection of fencing or other suitable protection at a distance of not less than 1.5 metres from the tree trunk(s) or shrubs or hedging, and no plant, materials or other objects shall be stored or placed against any of the trees, shrubs or hedges. The protection measures referred to above shall be maintained during the whole period of site excavation and construction.
6. Prior to the first occupation of the development hereby permitted full details of hard and soft landscaping shall be submitted in writing to the Local Planning Authority for approval. The scheme shall include all hard surfacing materials including driveways and planting plans (including tree planting). Those approved details shall be implemented prior to first occupation of the development and retained thereafter for so long as it remains in existence.
7. Prior to the first occupation of the development hereby permitted, the access road shall be widened as per plan No. 219-SK10B.
8. Details of the surfacing and drainage of the parking area hereby approved shall be submitted in writing to the Local Planning Authority for approval before any above ground works commence. The details thereby approved shall be installed prior to the occupation of any building on the site.
9. Prior to the first occupation full details of the proposed boundary treatment shall be submitted in writing to the Local Planning Authority for approval. Those approved details shall be implemented prior to first occupation of the development and retained thereafter.
10. Prior to the first occupation of the development hereby permitted, details of an Electric Charging Point for the development shall be submitted in writing to the Local Planning Authority for approval. The development shall only be completed and operated in accordance with that approved scheme. The ECPS shall include details of the charging point and where it will be located and how it will be managed and maintained.
11. The refuse bins for the proposed development shall be stored at all times in the designated refuse storage area and only moved to the designated

collection bin storage area on collections days as shown on the indicated plan no. 219-SK10B.