



Appeal Decision

Site visit made on 27 March 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal Ref: APP/B0230/W/22/3304684

234 Old Bedford Road, Luton LU2 7HP

- 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 Idnan Liaqat against the decision of Luton Borough Council.
 - The application Ref 22/00500/FUL, dated 5 May 2022, was refused by notice dated 30 June 2022.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is taken from the application form however, I have amended it to omit wording that does not form an act of development.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of adjoining dwellings, 232 and 236 Old Bedford Road and 277 Stockingstone Road with regard to privacy and No 232 with regard to outlook.

Reasons

Character and appearance

4. The existing dwelling on the appeal site is two storey with a single storey garage attached to the northern elevation which abuts the northern boundary of the plot. The existing dwelling is sited so that there is separation between the southern elevation and the southern boundary. The dwellings located along this section of Old Bedford Road are large detached dwellings, individually designed and sit within substantial plots, however, I note that 234 and 236 Old Bedford Road are of a consistent design. I noted during my site visit, that a number of dwellings within the vicinity of the appeal site have been altered and extended. The dwellings are set back from the road behind front gardens, driveways and parking areas. The majority of dwellings have large private amenity spaces to the rear.

5. Whilst there are a limited number of dwellings within the vicinity of the appeal site where two storey built form is sited in close proximity to both side boundaries, the prevailing character is that built form drops to single storey level towards one of the side boundaries of the plot or there is garden space retained between built form and at least one of the side boundaries. This pattern of development provides a feeling of spaciousness that contributes positively to the character and appearance of the area.
6. The proposed siting, footprint and massing would mean that two storey built form would be located in close proximity to both side boundaries of the plot, removing any visual relief in built form. Whilst a small gap between the proposed side elevation and the northern boundary would be created, the two storey built form in such close proximity to the boundary would not provide the same visual relief as the presence of a step down in built form to single storey level. The gap proposed between the side elevation and the southern boundary would also be limited and less than currently exists. Therefore, due to the massing, width and siting of the proposed dwelling, it would result in a harmful effect on the spaciousness of the area.
7. The proposed design of the replacement dwelling would take influences from certain design features along the road such as the symmetrical front projecting gable features. The design would introduce a further individually styled dwelling into the mixed character of the buildings in the vicinity. However, these considerations do not outweigh the harm I have identified above.
8. I have been provided with several examples of what the appellant contends are similar forms of development within the locality. During my site visit I viewed the properties identified and whilst I noted that these do have two storey built form in close proximity to both boundaries, these examples are of different designs to the appeal proposal and are not viewed in the same context as the appeal site and are therefore not directly comparable.
9. I find that the proposal would be harmful to the character and appearance of the area and would conflict with policies LLP1 and LLP25 of the Local Luton Plan 2011 – 2031 November 2017 (LP). These policies seek, amongst other things, to ensure that new development is of high quality design that contributes to enhancing distinctiveness and a sense of place. The proposal would also conflict with the requirements of the relevant sections of the National Planning Policy Framework (the Framework).
10. Policy LLP15 is referred to by the Council in the reason for refusal, however, this relates to the principle of housing provision and is therefore not directly related to this main issue.

Living conditions

11. The proposal would result in two storey built form in much closer proximity to the shared boundary with 232 Old Bedford Road than currently exists. There are windows located at ground floor and first floor level in the side elevation of No 232 facing the appeal site. Given the very limited separation between the proposed two storey side elevation and the side boundary, the additional built form would result in the proposal being visually intrusive in the outlooks from the adjacent neighbouring windows. The proposal would therefore be harmful to the living conditions of the occupiers of No 232 with regard to outlook.

12. The proposal includes the provision of a rear balcony at first floor level which would be limited in depth from the two storey rear elevation and would not extend out to the rear or side edges of the roof of the single storey element that it would sit above. The proposed elevation drawings show panels to each side of the balcony which would provide screening to limit direct overlooking of the rear garden areas of 232 and 236 Old Bedford Road. Should the appeal be allowed the details of the materials used for the side panels of the balcony could be required by planning condition to ensure that overlooking would be adequately limited in this regard.
13. The orientation of the proposed dwelling and the inset siting of the balcony mean that views from it would be directed to overlook the rear garden space of the host dwelling rather than directly towards the rear garden spaces of neighbouring dwellings that adjoin the side and rear boundaries of the appeal site. Whilst I noticed on site that 277 Stockingstone Road has a relatively limited rear garden depth compared with others in the surrounding area, the orientation of the proposed balcony which is angled away from No 277 combined with the separation distance would be sufficient enough to limit any additional overlooking to an acceptable level.
14. I therefore find that whilst the proposal would not result in harm with regard to the privacy of the occupiers of neighbouring dwellings, it would result in harm with regard to the outlooks of the occupiers of No 232. The proposal would therefore conflict with policies LLP1 and LLP25 of the LP. These policies seek, amongst other things, to create high quality places. The proposal would also conflict with the requirements of the relevant sections of the Framework.

Other Matters

15. I understand that the proposal would provide a family home that meets the appellants requirements in terms of living accommodation for them and their extended family for whom they care for. I have had regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. Notwithstanding these personal circumstances, the benefits of the revised living accommodation do not outweigh the harm I have found. There is no evidence before me to suggest that an alternative scheme that provides similar living arrangements could not be provided without the same harm I have identified. In this case, I find that my decision to dismiss the appeal is a necessary and proportionate approach to the legitimate aim of ensuring good design in the public interest. This outweighs the personal circumstances outlined above.
16. I note the appellant's intentions to provide a dwelling that performs better than the existing in terms of energy efficiency and the use of high quality construction methods. Given the scale of the proposal, these contributions would be modest and therefore attribute limited weight. The appellant asserts that sufficient private amenity space and parking provision would be provided. Even if I were to agree, the lack of harm in relation to these considerations does not weigh in favour of the proposal.
17. Interested parties have identified concerns about the loss of light to windows and the rear and side garden spaces at 277 Old Stockingstone Road and 236 Old Bedford Road. With regard to the relationship between the proposal and No 236, the rear building line of the proposed two storey element would largely align with the rear building line of No 236 and therefore the effect on the

amount of light reaching windows in the rear elevation and the garden area would not alter significantly. Whilst the proposed single storey projection would protrude further into the rear garden than the current rear building line, given the proposed height of this element it would not have a significant effect on the amount of light reaching the garden area. Due to the separation between the proposed built form and the boundary with No 277, there would not be a significant effect on the amount of light reaching windows or the garden area associated with that dwelling.

18. Reference has been made by an interested party to a 'right to light'. However, I have little conclusive evidence before me regarding the existence or nature of any such legal right. In any event, planning decisions generally concern land use in the public interest. It is not the purpose of the planning system to administer or safeguard private rights to light, which would have a separate means of redress in law.
19. The proposal has been subject to pre-application discussions with the Council which resulted in an amended proposal that sought to resolve initial concerns and the appellant asserts that different views were obtained from different Officers at the Council. Be that as it may, I must consider the appeal based on its individual merits.

Conclusion

20. The proposal is contrary to the development plan as a whole and there are no material considerations which indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

G Dring

INSPECTOR