
Appeal Decision

Site visit made on 2 May 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2023

Appeal Ref: APP/B0230/W/22/3312450

350 Beechwood Road, LUTON, LU4 9RG

- 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 V. Subakaran against the decision of Luton Borough Council.
 - The application Ref 22/01251/FUL, dated 4 September 2022, was refused by notice dated 23 November 2022.
 - The development proposed is Conversion and change of use from retail (Use Class E) to residential (Use Class C3) and extensions to provide 5 self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In determining the appeal, I have presumed that Units B and E are designed for one person and as such are within the requirements of the 2015 Technical Housing Standards for one person one bedroomed accommodation.
3. The description of development is five self-contained flats. However, Unit C would be a detached two-storey dwelling. I agree with the Council that Unit C should be considered to be a house rather than a flat. I have reasoned on that basis.

Main Issues

4. The main issues are the effect of the development on:
 - The character and appearance of the area; and,
 - The living conditions of occupiers of 352 Beechwood Road with particular regard to light, outlook, and noise and disturbance, and to future occupiers with regard to outlook and private amenity space.

Reasons

Character and appearance

5. Beechwood Road and Filmer Road are largely characterised by tight linear frontages of modest semi-detached and terraced dwellings, with very small front gardens but long narrow gardens to the rear.
6. 350 Beechwood Road (No 350) occupies a corner plot and appears to be a former modest dwelling with later side and rear extensions. There is a single storey extension to the side, which extends as far as the footway and at the

back the original outrigger appears to have been extended both to the side and further to the rear. There is also a single storey link along the side plot boundary with 352 Beechwood Road (No 352) which leads to a double garage at the rear of the plot. I conclude that the appeal plot has a built form with a disproportionately large bulk, spread and extent compared to the underlying building pattern.

7. The proposals would extend a two-storey structure across the full width of the Beechwood Road frontage, as well as extending further to the rear. The resultant structure would occupy more than half the plot's length. There would be a further two-storey dwelling at the rear of the plot, some 4.5 metres from the rear of the main building, which would replace the garage.
8. The scale and extent of works across the plot would be unduly bulky and extensive, and would reinforce the incongruity with the underlying building pattern. The development would appear cramped within the plot and represent overdevelopment in this context. Its overall design would also be bland and featureless compared to the nearby dwellings which, although unremarkable, have an underlying consistency of articulation and style, represented in the form of brick detailing, stone lintels, bay windows and which overall are of a smaller and more intimate scale.
9. The development would have an adverse effect on the character and appearance of the area and would therefore conflict with Policy LLP 25 of the Local Plan (LP). This requires development to enhance the distinctiveness and character of the area by responding positively to the townscape, street scene, scale, site and building context, amongst other considerations. It would also be contrary to LP Policy LLP15. This is concerned with housing provision and states that new housing should not result in over-intensification of the site.
10. The Council has also cited LP Policy LLP1 which is a strategic presumption in favour of sustainable development, which also sets out that planning permission will be granted where applications accord with local plan policies unless material considerations indicate otherwise. The development would conflict with local plan policies resulting in conflict with LP Policy LLP1.

Living conditions

Adjoining occupiers

11. The replacement of the single storey garage with a two storey dwelling would result in some visual intrusion and additional enclosure at the rear of No 352. I acknowledge that there is a conifer in No 352's rear garden but vegetation is not always as permanent as buildings. In any case the evidence indicates that this was planted to screen views from No 350's garage window into No 352's garden.
12. The proposed two storey dwelling would also create a greater obstruction to sunlight entering No 352's rear garden in the mornings and around midday. However, the dwelling of 1 Filmer Road (No 1), adjacent to No 350, would also cast shade into No 352's garden. I am satisfied that at least some of the additional shade cast by the development would be subsumed into the shade cast by No 1, which would limit its overall impact.

13. The intensification of use of No 350's plot, and the placement of cycle and bin stores would increase frontage activity and associated noise and disturbance directly alongside No 352's the rear garden.
14. Although I do not give more than minor to moderate weight to the issues likely to arise from noise and disturbance, outlook and light if taken individually, cumulatively they would amount to an adverse effect on living conditions for occupiers of No 352.

Future occupiers

15. The ground floor bedroom window of Unit B would look out into a very enclosed space, across the cycle storage area and towards the two-storey near blank wall of Unit C, at a distance of less than 6 metres. There would only be one other window in this flat, and that would look straight out onto a narrow paved area and then the footway. Occupiers of this unit would have very poor outlook.
16. The first-floor bedroom window of Unit E would also look out to the two-storey Unit C, at a distance of less than 6 metres. Bedroom 1 of Unit D would be about 4.5 metres from Unit C although this would be partial obstruction only. Nonetheless, there would be a high level of enclosure and very poor outlook from these windows, which would be detrimental to living conditions.
17. Appendix 6 of LP Policy LLP25 states that the minimum private external amenity space should be 45 square metres (sqm) for dwellings, and 5 sqm for 1-2 person flats. The appendix acknowledges that where this is difficult to achieve, there should be communal space.
18. The plans show communal space only, measured at 30 sqm. The space would also provide access for the cycle and bin storage areas. Bins would in any case need to be moved across the amenity space to the street access for collection. The amenity space would fail to meet the Council's quantitative standards and the space itself, being alongside the street and shoehorned in between a parking bay, and the bin store, would not be particularly attractive or usable.
19. I appreciate that not all flat dwellers require or use external space. However, this does not necessarily justify inadequate provision.
20. The development would therefore result in adverse living conditions for future occupiers and for the occupiers of No 352. This would be contrary to LLP Policy LLP 25 which requires new housing to provide external amenity space in accordance with the given standards, and to minimise noise, and loss of light, as well as LP Policy LLP1 as set out above. It would also conflict with Paragraph 130 of the Framework which requires development to provide a high standard of amenity for future occupiers.

Other Matters

21. One of the reasons for refusal is conflict with LP Policy LLP23 which is concerned with the loss of Class A1 facilities. I acknowledge that there is nothing in the evidence to support the assertion that continued retail use would be unviable. Nonetheless, I see no reason to disagree with the appellant that there are alternative facilities within convenient walking distance. As such I find no conflict with LP Policy LLP23.

22. Interested parties have raised concerns in relation to parking stress. The highways authority has recommended that if allowed, future residents should not be able to apply for parking permits. I noticed at my visit that there are few on-street parking bays and those that are available are for permit holders only. However, as I have found harm in relation to the main issues it is not necessary for me to consider this further.
23. Issues around the Council's handling of the application are outwith the scope of the appeal.
24. The appeal statement suggests improvements and amendments to the proposals to address some of the Councils' concerns, but I have to determine the appeal on the same basis as the Council. To do otherwise could be prejudicial to the Council and other parties.
25. I appreciate that the appellant considers that the officer's report is subjective in some respects, but the Council's descriptive assessment is a matter of planning judgement.

Conclusion

26. The development would provide four additional dwellings. However, the latest housing delivery test indicates that Luton has sufficient housing land and there is nothing before me to suggest otherwise. As such, the modest benefits arising from the development would not be outweighed the harm identified above.
27. The development would be contrary to the local plan and national guidance, and there are no material considerations of such weight to lead me to conclude otherwise. The appeal is dismissed.

A Edgington

INSPECTOR