



Appeal Decision

Site visit made on 4 July 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/B0230/W/23/3316093

15 Riverside Road, Luton LU3 2LY

- 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 Mudasir Hussain against the decision of Luton Borough Council.
 - The application Ref 22/00715/FUL, dated 28 June 2022, was refused by notice dated 9 December 2022.
 - The development proposed is the erection of a block of 3 No. 3 bedroom terraced dwellings following the demolition of a detached dwelling (burnt house).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - The living conditions of the occupants of No. 17 Riverside Road, with particular reference to daylight, sunlight, outlook and sense of enclosure.

Reasons

Character and appearance

3. The appeal site is located in an established residential area comprising a mix of housing types, including bungalows, terraced, semi-detached and detached properties. Despite the difference in housing types, properties along the road sit comfortably on their plots and this combined with appropriate spacing between neighbouring properties creates a sense of spaciousness that makes a positive contribution to the character and appearance of the area.
4. There is an existing bungalow on the site, and although it is now dilapidated due to fire damage, there is enough of the original building left for me to observe that it fitted comfortably on its plot. Although the width of the bungalow took up much of the width of the plot, there is a sense of spaciousness due to the existing bungalows modest height and a subservient single storey flat roofed garage next to No 11 Riverside Road (No 11), a neighbouring two storey dwelling. This arrangement complements the prevailing sense of spaciousness evident along Riverside Road and positively contributes to the overall character and appearance of the area.
5. The proposal would result in the introduction of a block of three two-storey terraced dwellings. They would be set in by less than a metre from the

common boundary on either side. Although the ridge of the roofs would be comparable to No 11, it would be significantly higher than No 17 Riverside Road (No 17). Due to its overall width and limited set in from the common boundaries on both sides and the overall building mass which would extend almost across the entire width of the plot, the proposal would appear unduly cramped on the site, would represent an over intensive form of development that would not respect the existing pattern of development and would undermine the existing spacious character. As a result, it would appear as a discordant feature that would look harmfully out of place.

6. In reaching that view I have taken account of the appellant's analysis of the density measures that would be achieved on the site. However, as recognised by the appellant the measures do not address issues of character and context and for the reasons set out above, the proposed development would unacceptably harm the character and appearance of the area. I have also taken account of the fact that the existing dilapidated bungalow currently detracts for the character and appearance of the area. However, I am satisfied that this will be a transient situation that does not justify harmful development at the appeal site.
7. I therefore conclude that the development unacceptably harms the character and appearance of the area in conflict with Policies LLP1, LLP15 and LLP25 of the Local Luton Plan, 2011-2031, November 2017 (LLP). Amongst other things these seek to ensure development is of a high-quality design, responds to and enhances local character and does not result in an over intensification of the site. The development is also at odds with the National Planning Policy Framework (Framework) which seeks to ensure that developments are sympathetic to local character.

Living conditions

8. No 17 has an entrance door and some windows located in the elevation that face towards the appeal site including a clear glazed window serving a habitable room.
9. Although I accept that the existing burnt-out bungalow on the appeal site is located close to the common boundary with No 17, this was single storey with a sloping gable roof. The proposed development would fill the gap that previously existed because of the single storey height and sloping roof at the appeal property. Notwithstanding that there are also rear facing patio doors that serve this habitable room at No 17, the proposal would result in a significant building mass that would loom above the existing boundary fence and would unacceptably dominate the outlook from this room. This arrangement would also create an unacceptable sense of enclosure that would have a harmful impact on the living conditions of the existing residents at No 17.
10. Further, due to the orientation of the appeal property and No 17 relative to the trajectory of the sun, the significant increase in building mass so close to the common boundary would also result in a material loss of daylight and sunlight that would unacceptably darken the habitable room and result in a significant degree of overshadowing and consequently would be detrimental to the living conditions of the existing occupants of No 17.

11. I therefore conclude that the proposal would have an adverse impact on the living conditions of the occupiers of No 17 with particular reference to daylight, sunlight, outlook and sense of enclosure in conflict with Policies LLP 1 and LLP25 of the LLP which amongst other things seek to create high quality healthy places that minimises overshadowing and loss of light. The proposal would also conflict with the Framework which seeks to retain a high standard of amenity for existing and future users.
12. The reasons for refusal also cited policy LLP19 of the LLP. However, that deals with extensions to dwellings and annexes and so is not relevant to this proposal.

Other Matters

13. Although the reasons for refusal set out that the proposal would fail to enhance or respond positively to the ecology or biodiversity of the surrounding area, there is no detailed evidence before me in respect of these matters and therefore I have no reason to find that the proposal would have any adverse impact on these matters.
14. I accept that the proposal would increase the supply of housing in a suitable location where higher housing densities are encouraged. Further, the provision of three additional dwellings to replace the burnt-out bungalow would have social and economic benefits stimulating work and trade during construction. However, these matters are clearly outweighed by the harm the proposal would have on the character and appearance of the area and the adverse impact it would have on the living conditions of the existing occupants of No 17.

Conclusion

15. For the reasons I have set out, the proposal would be unacceptably harmful to the character and appearance of the area and would have an adverse impact on the living conditions of the existing occupants of No 17 Riverside Road. Overall, I conclude that the proposal would conflict with the development plan and there are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

S Rawle

INSPECTOR