



Appeal Decision

Site visit made on 27 July 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/B0230/W/22/3310540

37 Stanford Road, Luton, LU2 0PY

- 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 Shakinthan Thuraiatnam against the decision of Luton Borough Council.
 - The application Ref 22/01015/FUL, dated 5 September 2022, was refused by notice dated 31 October 2022.
 - The development proposed is described as the erection of end terraced 3-bedroom dwelling houses to the side of no 37 Stanford Road land.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development upon the character and appearance of the wider area;
 - the effect of the development on the living conditions of the occupiers of adjoining properties, with particular regard to outlook.
 - the effect of the proposed development upon the living conditions of future occupiers; and
 - the effect of the proposed development upon ecology and biodiversity

Reasons

Character and Appearance

3. The appeal site is an end terrace property located on Stanford Road. The surrounding area is predominantly residential, which is characterised by terraced housing of similar scale and design, and semi-detached, single storey bungalows. The area is characterised by elongated frontages which contain some element of vehicle parking. While there is some soft landscaping through hedges and shrubs, they are not a common feature of the area. The spaces between the pairs of semi-detached dwellings and terraced houses provides a visual break in built form, albeit most properties have fences and garages which block views to the rear gardens. Nonetheless, the existing gaps and distanced arrangement of the dwellings contribute to the open design of the overall area and serve to retain a sense of spaciousness across the street.

4. While single storey side extensions are present at some other properties, they are not a common feature. Regarding new terraced two storey dwelling houses, none were observed in the area which would be comparable to the proposed development.
5. The proposed development would not be set back from the front building line or be set down from the main ridge height of the existing dwelling. It would introduce a two-storey dwelling which extends to the boundary of the appeal site. Therefore, even with similar materials to the existing dwelling, the new dwelling would elongate the proportions of the overall terrace, disrupting the open character of the area and reducing the spaciousness between neighbouring dwellings.
6. While there would be some visual mitigation through the inclusion of a small sloping pitched roof, the bulk of the proposed development would still significantly narrow the gap between dwellings which would erode the feeling of spaciousness from the front aspect. Consequently, the height and bulk of the new dwelling would remain a visible and discordant presence in views from surrounding properties and the public highway. This would be at odds with the prevailing pattern of built form.
7. There is an extant permission for the erection of a two storey side and rear extension (21/01377/FULHH). This permission would increase the amount of built form at the appeal site, in a similar manner to the proposed development, although there would be moderate differences in the specific dimensions. I have no documentation before me regarding the specifics of this permission, however, the appellant states that the proposed development would be wider, but shorter in length on the first floor. With this context, the appellant's case is that the extant permission would form a realistic fallback position should this appeal be refused, and thus that a substitution of development should be consequently allowed, since the proposals are roughly equivalent in size. There is no information before me which contradicts the appellant's case that they would not pursue this permission if necessary. Thus, there is nothing before me to indicate that the implementation of this permission is not a realistic possibility.
8. However, the extant permission would only enable the extension of the existing dwelling and would not permit the construction of a separate dwelling, as is the case with the proposed development. Although there may be a minor alteration of the overall built form at the appeal site, the proposed development would result in an intensification of the residential use of the appeal site, due to the site being used as two separate dwellings. This would introduce additional domestic paraphernalia to the site, such as parking, waste storage facilities and additional fencing to subdivide the plot. As such, it would detract from the character and appearance of the street scene and the surrounding area, by introducing further residential development into a confined space. Accordingly, when considering the visual effect of the use of the appeal site as two dwellings rather than a larger single dwelling, the extant permission is not sufficiently comparable to the proposed development as to justify it.
9. I have considered the appellant's comments regarding the reduction of the length of the rear extension or removal of this extension. However, this would require a significant reconfiguration of the plans, which would likely require a separate application, as the appeal process is not intended to be used to evolve

proposals. I have also considered the appellant's comments regarding the use of materials which match the existing row of terraced houses. However, these considerations would not reduce the effect of the proposed development on the spaciousness of the area or the introduction of new domestic paraphernalia.

10. The proposed development would increase the amount of hardstanding at the frontage to accommodate parking and bin storage for the existing and proposed houses. Hardstanding to the frontage of houses is not uncommon in the street, where few properties have any significant vegetation to their frontages. As such, it is considered that the increase in hardstanding at the appeal site would not significantly harm the sense of spaciousness of the street scene.
11. In conclusion, the appeal scheme would harm the character and appearance of the wider area. It would not respond to local character or provide continuity of built form, contrary to Policies LLP1 and LLP25 of the Luton Local Plan 2017.

Living Conditions – Neighbours

12. Due to the orientation and close proximity of the building, the proposed development would primarily affect the occupiers of the adjacent property No. 39 Stanford Road, which is a single storey bungalow. The bungalow has several windows which are oriented towards the small garage on the appeal site, which is located to the side of the existing dwelling. Due to the slight incline of the road, this bungalow is located on slightly lower ground than the existing dwelling and the proposed development.
13. As a result of this disparity, the perceived height of the proposed development at two storeys would be significant, as the difference in height would be greater than would otherwise be the case if they were level with one another. Additionally, as the proposed development extends to the limits of the appeal site, the plans indicate that there would be no physical buffer space between the proposed development and the adjacent property. I have considered the appellant's comments regarding the garage at the adjoining bungalow and how it would contribute to the gap between the properties. Nonetheless, the overall effect would significantly harm the outlook for the occupiers of No 39 Stanford Road, given that it contains several windows which face the appeal site. While the fence at the rear of the appeal site would help to alleviate outlook issues from the garden, the proposed development would still become a dominant and oppressive feature which would have an overbearing effect upon outlook.
14. Although the existing dwelling at No. 37 Stanford Road would not have any windows directed towards the new dwelling, it would become a mid-terrace dwelling, such that the proposed development would have a confined and overbearing effect on the future occupiers of No. 37 Stanford Road, with particular regard to views from the garden and the large single storey rear extension.
15. In reaching this view, I have considered the appellant's comments regarding adjusting the ground level of the proposed development to better match the ground level of No. 39 Stanford Road. However, this would require a significant alteration of the plans which would require a separate application, as noted above. In any event, this form of alteration would not adequately mitigate the harm on outlook, given the overall height of the proposed development as a two storey property and the close proximity of the appeal site.

16. I have also considered the appellant's comments regarding the distance between 26 and 28 Stanford Road, however, there is a clear pathway between those houses. This feature would not exist if the proposed development were to be constructed, and as such is not comparable, as there would be no equivalent reduction in built form.
17. In conclusion, given the proposed overall height, slope of the land and proximity of the building to neighbouring properties, the proposed development would harm the living conditions of the occupiers of adjoining properties. It would not create a healthy place or demonstrate the best practice principles of urban design, contrary to Policies LLP1 and LLP25 of the Luton Local Plan 2017. It would therefore not add to the overall quality of the area, contrary to Section 12 of the National Planning Policy Framework (NPPF).

Living Conditions – Future Occupiers

18. The Government's nationally described space standard (NDSS)¹ sets out the minimum internal space requirements for dwellings. It is not disputed by the appellant that the minimum size for a 3 bedroom, 2 storey dwelling, such as the proposed development should be 84 m². However, while the Council has referred to these figures set out under the NDSS, there is no evidence before me that these are measurements which have been adopted in the local plan. Nonetheless, the NDSS does emphasise good design and it is consistent with the National Planning Policy Framework. As a result, I attach moderate weight to it.
19. However, there is no evidence before me that the proposed development would fall well short of the minimum level of provision considered acceptable under the NDSS, in terms of overall size and storage. The proposed development is similar to the existing development and other properties in the area. In fact, while similar to the other 3 bedroom houses in the area, the plans indicate that it would be larger than those properties due to the comparatively large size of the rear extension. Given that the proposed development would likely be larger than existing dwellings in the area and would likely meet the minimum space requirements set out in the NDSS, it is considered that the proposed development would provide satisfactory living conditions for future occupiers.
20. By dividing the garden at the appeal site between the existing dwelling and the proposed development, the new gardens would be significantly smaller than the existing garden. However, given the large size and length of the garden, there would still be sufficient amenity space for future occupiers to utilise the area for domestic activities, alongside accompanying paraphernalia.
21. While there may be discrepancies regarding the plans, such as the scale used on the floor plans, the overall dimensions of the appeal site are sufficiently large, such that the internal layout and external private amenity space would be satisfactory.
22. In conclusion, the proposed development would provide suitable living conditions for future occupiers, compliant with Policy LLP1 of the Luton Local Plan 2017, which seeks to create a network of healthy places. It would also provide adequate external amenity space, compliant with Policy LLP25 of the Luton Local Plan 2017.

¹ Technical housing standards – nationally described space standard, March 2015

23. The Council also alleges a conflict with Policy LLP15 of the Luton Local Plan 2017. However, this policy relates primarily to housing provision and my attention has not been drawn to any wording in it that relates to this main issue. It has therefore not been determinative in my decision on this issue.

Ecology and Biodiversity

24. The frontage of the appeal site currently includes a medium sized mature hedgerow. However, there is no evidence before me regarding the ecological value of this hedgerow. There are also no other consultee responses before me in relation to the ecological value of the hedge, albeit the Council's officer report suggests that an ecological condition was recommended. However, there are no such draft conditions before me. As such, without any substantive evidence to the contrary, I can only find that that there would be no significant harm to ecology and biodiversity.
25. In conclusion, the proposed development would not cause significant harm to ecology and biodiversity, compliant with Policies LLP1 and LLP25 of the Luton Local Plan 2017, which requires development to respond to features of the natural environment.
26. The Council also alleges a conflict with Policies LLP15, LLP36 and LLP37 Luton Local Plan 2017. However, these policies relate primarily to housing provision, flood risk and climate change and my attention has not been drawn to any wording in them that relate to this main issue. They have therefore not been determinative in my decision on this issue.

Other Matters

27. I have considered the benefits that would arise from the proposed development. The construction of a three-bedroom dwelling on existing residential land would fulfil a need of the housing market. Given the location, the appeal site is located close to existing services, shops and transport links. However, having taken these considerations into account, I find that the benefits would be relatively limited. Given the scale and nature of the development proposed, these considerations do neither outweigh the harm I have identified nor the conflict with the development plan.

Conclusion

28. I have found that the appeal scheme conflicts with development plan policy and thus find that it would be contrary to the development plan as a whole. No material considerations have been demonstrated which would outweigh the planning development. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

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INSPECTOR