



Appeal Decision

Site visit made on 9 October 2023

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal Ref: APP/B0230/W/22/3312023

1 Kinmoor Close, LUTON LU3 3LB

- 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 A Chaudhrey against the decision of Luton Borough Council.
 - The application Ref 22/00854/FUL, dated 14 July 2022, was refused by notice dated 8 September 2022.
 - The development proposed is erection of a two-bedroom detached dwellinghouse with new fence and off-street parking after part demolition of existing house.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-bedroom detached dwellinghouse with new fence and off-street parking after part demolition of existing house at 1 Kinmoor Close, LUTON LU3 3LB in accordance with the terms of the application, Ref 22/00854/FUL, dated 14 July 2022, and the plans submitted with it, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - the effect of the proposed dwelling on the character and appearance of the area, and
 - the effect of the proposal on the living conditions of existing neighbouring occupiers, especially the occupiers of 1 Kinmoor Close (No 1) with respect to the size of retained garden area.

Reasons

Character and appearance

3. Kinmoor Close consists of a relatively modern residential estate of semi-detached housing within a suburban location. Kinmoor Close is a short cul-de-sac along a curved road, with many houses along it having been extended. As such, the pattern of development includes an irregular front building line and development that in places is close to the highway, especially 24 Kinmoor Close. The appeal site is a corner plot and shares a side boundary with Arbroath Road, which climbs a hill up past the side of the site towards Kinross Crescent. The appeal site is a vacant space to the side of the host dwelling and whilst this contributes to the spaciousness of the site it makes a neutral contribution to the character and appearance of the area.
4. The proposed dwelling would align with the established front building line of No 1 and continue the linear form of development of housing along Kinmoor

Close. Also, whilst in plan form the proposal appears to intrude beyond an established building line formed by the side of 89 Arbroath Road, on site it is clear that there is limited visual reference between these two properties due to the substantial change in local topography. Consequently, whilst local housing is predominantly semi-detached in character, the proposed detached dwelling would be of a similar scale as neighbouring housing. Therefore, the scheme would complement the general form and layout of the surrounding built form.

5. Housing in the area is relatively close-knit with a limited sense of spaciousness evident. The area includes examples of local dwellings being sited close to the footway. Consequently, whilst the proposal would be located within a prominent site, it would not have a substantially detrimental effect on the area's limited sense of spaciousness and would blend in well with the area. Further, the proposed plot would be similar in size to nearby plots, in making use of a vacant side garden. Accordingly, it would not represent a form of development that could be regarded as over intensive or result in over-development.
6. The proposal would provide two new parking spaces in front of No 1 and assign the existing parking spaces to the proposed dwelling. As the parking area to the rear of the site is existing and would reuse the driveway that served the original garage, it would function as well as the existing arrangement. Furthermore, parking proposed to the front of No 1 would not be uncharacteristic of the area and would provide effective off street parking. Accordingly, the proposed parking arrangements do not demonstrate that the layout of the site would be constrained or poorly designed.
7. Consequently, the proposed dwelling would complement the character and appearance of the area. As such, the proposal would comply with policies LLP1 and LLP25 of the Luton Local Plan [2017](LP) and the National Planning Policy Framework (the Framework). These seek, with respect to issues of character and appearance, for development to respond and enhance local character and provide continuity of built form, connectivity, active frontages, and enclosure.

Living conditions – existing

8. Design criteria is set out by LP policy LLP25, at (xi) this requires new housing to be delivered in accordance with external amenity space standards as set in appendix 6. This states that for new dwellinghouses the provision of 90 sqm should be provided, apart from for units of 1-2 bedrooms, where a lesser area will be considered. It also states that smaller areas could be acceptable having regard to the character of the area and design of house but such area should be no smaller than 45sqm.
9. The appeal site consists of the side garden and driveway of No 1. The proposed two-bedroom dwelling would have access to a private garden of 60sqm, whilst the existing three-bedroom dwelling would retain a rear garden of 45sqm. The retained garden would be located to the immediate rear of the dwelling and would be rectangular in shape. Its size would provide adequate space for a washing line and typical garden equipment frequently associated with normal family use. Furthermore, as I have noted on the submitted location plan, the retained garden would be similar in size to some neighbouring gardens. As such, the rear garden would be of a suitable size for family use and would not be overtly small within the context of local development. Consequently, its size and functionality would comply with the provisions of appendix 6.

10. As a result, the proposal would provide suitable living conditions for existing occupiers with respect to the size of the retained garden. Accordingly, the proposal would therefore comply with LP policies LLP1, LLP15 and LLP25 and the Framework with respect to matters of effect on living conditions. These seek, *inter alia*, for development to provide housing in accordance with external amenity space standards and to create a high standard of amenity for existing and future users. However, LP policy LLP32, with respect to parking provision, is not relevant with respect to matters of amenity space and weighs neither for nor against the proposal.

Conditions

11. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). The Council has not provided a suggested list of conditions if I were to allow the appeal. However, I find that several conditions are necessary to meet advice of the PPG. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. A condition requiring the details of materials to be agreed by the Council prior to use is offered in the Appellant's Design and Access Statement. This would be necessary to secure suitable materials that would complement adjacent housing in the interests of the character and appearance of the area [3].
12. The Highway Authority has advised that conditions would be necessary with respect to pedestrian visibility splays, a permeable driveway and an electric charging point. I have imposed conditions to secure pedestrian visibility splays and permeable hardstanding in the interests of highway safety [4 and 5]. These conditions are identified as required by the Highway Authority within the Council's officer report. However, I have not sought details of an electric charging point as this would be secured by Building Regulation requirements.

Conclusion

13. The proposed scheme would comply with the development plan when taken as a whole. For the above reasons, the appeal is allowed and planning permission is granted subject to the imposed conditions.

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INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan, Proposed fence detail MB.1, Site/block plan-mma.447, and Proposed plans & elevations - mp.24.
- 3) Before any above ground works commence, details of the materials to be used in the construction of the external surfaces of the development and details of all hard surfacing, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The approved scheme shall maintain visibility splays of 1.8m by 1.8m at all vehicular access points of the site and shall keep visibility splays clear of obstruction above a height of 0.6m in perpetuity.
- 5) The approved hardstanding area shall consist of permeable paving and shall be installed as such prior to the occupation of the approved dwelling.

End of conditions