



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: 19 October 2023

Appeal Ref: APP/B0230/W/22/3310849

35 Maidenhall Road, LUTON LU4 8JZ

- 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 Hussain against the decision of Luton Borough Council.
 - The application Ref 22/00851/FUL, dated 1 July 2022, was refused by notice dated 2 September 2022.
 - The development proposed is Erection of one (one-bedroom) bungalow at rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed dwelling on the character and appearance of the area,
 - The effect of the proposal on the living conditions of future occupiers with particular regard to privacy,
 - Whether proposal would deliver a suitable mix of housing, and
 - Whether the proposed scheme would respond well to the natural assets of the site, with particular respect to biodiversity and flooding.

Reasons

Character and appearance

3. Housing in the area is arranged in regimented rows which are set back from the highway a similar extent forming a clearly defined front building line of mostly hard surfaced frontages. Accordingly, the local pattern of development forms a strong and regular pattern within a suburban setting. The appeal site consists of part of the rear garden of a semi-detached property on a corner plot. The site is currently occupied by several scrap vehicles and associated equipment. However, these are temporary in nature and are not visible from outside the site. Therefore, although enclosed by hedging, the site forms a clear gap in built form that contributes to a sense of space formed between the housing of Maidenhall Road and Newark Road.
4. The proposal would place a single storey dwelling within the rear garden of 35 Maidenhall Road (No 35). This would include a driveway which would use the existing gated access into the site. The proposed block plan indicates that a section of hedge would be removed to provide access and an outlook for

occupiers of the proposal. The effect of these works would be to increase views of the site from the street. Consequently, the proposed dwelling would infill this part of the gap with built form. Whilst being single-storey in nature, the proposed dwelling would be an anomalous addition to the street, out of keeping with existing housing which is predominantly two-storey in character.

5. The side elevations of houses within the street are relatively close to each other but their plots include comparatively long rear gardens, which emphasise the spaces between development formed by the gardens. Gaps between housing, including over the appeal site, provide glimpses of established tree and hedge groups in rear gardens. This provides a pleasant counterpoint to the area's relatively hard urban edge. As such, the proposed scheme would infill a gap which makes a pleasant contribution to the area and would erode the clearly defined pattern of development.
6. Furthermore, the form and design of the proposed dwelling would form an awkward juxtaposition with the scale of existing housing within the street. Although an outbuilding, to the rear of No 31, is similar in scale to the proposal this has no material effect on the streetscene, in contrast to the proposed dwelling. Also, whilst the proposal would be subdued in the street, being aligned with the existing building line and low-level, it would relate poorly to the established local street scene. It would therefore be out of keeping with the local built vernacular. Moreover, the site as an undeveloped plot that contributes to a wider sense of openness, between buildings, through to gardens of Maidenhall Road beyond the site. The scheme would diminish the contribution made by the plot to the sense of spaciousness it forms in combination with adjacent rear gardens.
7. The Appellant's density calculations demonstrate that the building's footprint would occupy around 25% of the plot, would provide for one bedspace within a comparatively large area and provide development at a rate of 63 dwellings per hectare. However, these measures do not sufficiently address considerations of character and context. Furthermore, the Appellant's figures have not been applied to the local context to aid comparison. Nonetheless, the site is clearly not within a high-density urban area or neighbourhood centre where such intensification is encouraged by the LP. Consequently, whilst the Framework seeks to make effective use of land, the adverse effect of the proposal would represent an unsuitable intensification of the site resulting in its over-development.
8. Although I understand that the site historically included a single garage, this has since been removed and does not inform the existing character. The proposal would be subordinate in scale to existing built form and is proposed to consist of materials that would match the local built form. Nonetheless, it would be out of keeping with the general height of local street facing housing and would therefore be anomalous in form and design.
9. Consequently, the proposal would harm the character and appearance of the area. Accordingly, the proposed development would conflict with policies LLP1, LLP15 and LLP25 of the Luton Local Plan [2017](LP) and the National Planning Policy Framework (the Framework) concerning matters of character and appearance. These seek, among other matters, for development to contribute to a sense of place, to not result in an intensification of a site and to respond positively to the existing streetscene and pattern of development.

Living conditions - proposed

10. No 35 includes rear facing windows at ground and first floor that would overlook the appeal site. The proposal would provide two front garden areas either side of the driveway and a further small area found to the side of the proposed dwelling. Although the garden areas would meet the Council's size requirements, they would be diminished in usefulness due to their roadside location and by being bisected by a driveway. Its effective use would also be hampered by its proximity to the rear windows of No 35. Over a short distance, occupiers of No 35 would be able to overlook most of the proposed gardens.
11. Some of the garden areas, especially the small side garden, would also be overlooked by occupiers of No 37 although the proposed dwelling would block some views from this vantage. Whilst the side garden is small it would provide the most private area for future occupiers, set away from the roadside. New planting, proposed on the boundary with No 35, would provide some additional screening but this would take time to mature and would be unlikely to provide substantial privacy.
12. Consequently, the garden areas would be substantially overlooked by occupiers of No 35 and partially from No 37, resulting in a substantial absence of privacy for future occupiers. Accordingly, the proposal would not comply with LP policies LLP1 and LLP25 and the Framework, with respect to the effect on living conditions. These seek, *inter alia*, for development to achieve sustainable development and to minimise opportunities for overlooking and promote a high standard of amenity for future users. However, LP policy LLP15 is silent with respect to the effect on living conditions and therefore weighs neither for nor against the proposal in this issue.

Housing mix

13. LP policy LLP15, with respect to housing provision, identifies that the Council will make provision to accommodate 8,500 dwellings within the City, with a size, type and tenure that would align with the identified housing need requirements within its Strategic Housing Market Assessment (SHMA) and monitored through the Strategic Housing Land Availability Assessment (SHLAA). At section LLP15 (B), the policy states that for residential sites, not on allocated land, permission will be granted provided that it would not lead to a loss of other uses for which there is a recognised local need. Although the proposal would not remove land with a recognised need, the policy also requires new housing to not result in an intensification of a site. It also requires development to achieve a mix of different housing sizes.
14. The Council has informed that its SHLAA has found that one-bedroom dwellings have been overprovided against the City's requirements, although I have not been provided with substantive evidence to support this. In any event, LP policy LLP15 does not place a cap or limit on the type of house types that can be allowed.
15. The proposed single-dwelling would be on a small site that would be unable to deliver a "mix of different housing sizes" as envisioned by LP policy LLP15. As such, the policy provides no clear requirement for the proposal to align with the City-wide housing requirements of the SHMA, which I would expect to be predominantly delivered through larger sites. Accordingly, the provision of a

one bed dwelling in this location would not conflict with the required housing needs of the SHMA.

16. Consequently, in terms of the type of housing proposed, it would accord with LP policies LLP1 and LLP15. These include encouragement of sustainable growth and to allow windfall housing development where there would be no loss of other uses where there is a recognised need.

Loss of natural assets

17. The proposal would involve the removal of parts of the boundary hedge. Most of the site is hard surfaced seeming to afford limited ecological interest. As such, the site's natural assets, limited though they are, would be reduced by the proposed hedge removal. Nonetheless, I am satisfied that the minor loss could be readily offset by the proposed provision of new planting and grass areas, creating a broader scope of habitat potential for wildlife. Suitable biodiversity measures could have been secured by condition had I been minded to allow the appeal.
18. The Council also identifies that the proposal fails to demonstrate how it would reduce carbon emissions or the risk of flooding but has not adequately demonstrated the need for these matters to be satisfied by the proposed scheme. There is no evidence that the site is subject to flooding and matters of suitable drainage, to resolve any site-specific surface flooding, could be adequately resolved by the imposition of a suitably worded condition. Furthermore, whilst LP policy LLP25(viii) seeks development to reduce carbon emissions the Council has provided insufficient evidence to demonstrate how this should be achieved on individual sites. The effect on carbon emissions would be limited and an adverse effect would be minor and would not justify refusing the scheme.
19. Accordingly, the proposal would comply with LP policy LLP25 and the Framework with respect to the effect of development on natural assets. These include the requirement for development to provide measures to preserve and enhance natural assets and biodiversity.

Conclusion

20. The proposal would contribute towards the supply of housing within a suburban location, affording good access to goods and services which would be of benefit to the scheme. Nevertheless, these benefits would be limited and would not outweigh the conflict found with the development plan when taken as a whole. I therefore conclude that the appeal should not succeed.

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INSPECTOR