



Appeal Decision

Site visit made on 10 July 2023

by J N Seymour BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23.10.2023

Appeal Ref: APP/B0230/W/22/3313505

The Jackdaws, 12 Butterfield Green Road, Luton, LU2 8DD

- 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 Mohammed Khan against the decision of Luton Borough Council.
 - The application Ref: 22/01136/FUL, dated 22 September 2022, was refused by notice dated 17 November 2022.
 - The development is described as: 'Erection of 6 three bed dwellinghouses with associated access, parking and landscaping after demolition of existing dwelling'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area.
 - The living conditions of the occupiers of neighbouring properties with particular regard to the privacy, outlook, noise and disturbance and future occupiers with regard to access to private outdoor space of the proposed development.
 - Biodiversity, trees and green infrastructure.

Reasons

Character and Appearance

3. The appeal site comprises a detached dwelling that forms part of a small cluster of dwellings on the outskirts of Luton. The area is characterised by detached dwellings that are set within relatively large plots with sizeable rear gardens. The dwellings differ in terms of their size, general appearance and the distance they are set back from the road. Nevertheless, they sit comfortably in their individual plots and this, combined with generous spacing between them, gives the area a spacious and open character and appearance.
4. The appeal proposal would involve the demolition of the dwelling on the appeal site, known as The Jackdaws, and the construction of six three-bed dwellings. The proposed layout would consist of a pair of semi-detached dwellings to be built in approximately the same position as The Jackdaws, forming plots 1 and 2. A second pair of semi-detached dwellings would be positioned towards the centre of the appeal site forming plots 3 and 4. Towards the rear of the site,

two detached dwellings are proposed which would form plots 5 and 6. Plots 2-6 would be accessed via a new driveway running the length of the site adjacent to its northern boundary, whilst plot 1 would be accessed directly from Butterfield Green Road.

5. Policy LLP1 of the Luton Local Plan 2011-2031 (November 2017) (LLP) states that new development should contribute to enhancing a sense of place and preserve or improve the character of the area. The increase in the number of dwellings from one to six and a large amount of hardstanding would create a suburbanising effect in a semi-rural location characterised by detached dwellings in large, open plots. The construction of six dwellings on a plot currently occupied by a single dwelling would be at odds with the prevailing character of the area as the sense of openness that currently exists would be lost. Therefore, I consider the appeal proposal would harm the character and appearance of the area.
6. The appellant has raised the fact planning permission has been granted for other developments at sites nearby, namely Luton Vale Cemetery & Crematorium and the Butterfield Green Technology Park. I do not have the full details of those other planning permissions before me and in any event, these sites are a considerable distance from the appeal site and they are fundamentally different in their character. Therefore, I cannot attribute any significant weight to these decisions.
7. I note Policy LLP15 states that new housing should not result in over-intensification of the site and higher densities will be encouraged within Luton Town Centre and the district and neighbourhood centres. However, the appeal site is located outside of these identified areas and I consider constructing six dwellings on a site currently occupied by only one dwelling would be an unacceptable over-intensification in the context I have described. Whilst I acknowledge Policy LLP25 supports the optimisation of higher densities, it also states that backland development should be avoided where it gives rise to amenity issues. This issue of living conditions is covered in the following section of my decision.
8. Consequently, I conclude that the appeal proposal would conflict with Policies LLP1, LLP15 and LLP25 of the LLP because it would create an over-intensified, suburbanising development that would fail to preserve or improve the character and appearance of the area. The proposal would also conflict with the guidance in Section 12 of the National Planning Policy Framework (the Framework) which requires that development is visually attractive as a result of good architecture and layout, which the appeal proposal fails to achieve.

Living Conditions

9. It is common ground that the garden sizes for the six dwellings would fall below the required 90 sq.m set out in the External Amenity Space Standards in Appendix 6 of the LLP. I acknowledge that these standards allow gardens as small as 45 sq.m, but it states regard must also be given to the character of the area in these circumstances.
10. In more densely constructed urban areas I would perhaps expect dwellings to have smaller gardens. However, in a sparsely constructed cluster of dwellings on the edge of an urban area, I cannot see any reason why the development should fail to provide gardens that comply with the standards. I consider that

the gardens would be disproportionately small for the size of dwellings that have been proposed. Therefore, I consider the appeal proposal would provide a poor standard of amenity for future occupants, conflicting with the External Amenity Space Standards and, in turn, criterion xi. of Policy LLP25.

11. Turning my attention to the effect of the appeal proposal on existing neighbouring properties with regard to privacy. Plots 3 and 4 would be positioned adjacent to the common boundary with the dwelling known as 'Braeside'. Plots 3 and 4 would be orientated perpendicularly to the other four dwellings, facing north with their rear gardens against the boundary with Braeside.
12. I acknowledge the appeal proposal has been designed to minimise overlooking, with only rooflights facing the garden of Braeside. However, the shallow depth of the gardens for plots 3 and 4 means the proposed dwellings would be very close to the private amenity space of Braeside, which is likely to give rise to a loss of amenity in terms of noise disturbances and privacy loss. This relationship is exacerbated by the presence of plots 5 and 6 which would reduce the openness currently experienced at these properties and it would cause an overbearing impact for the residents at Braeside.
13. Criterion v. of Policy LLP25 supports the optimisation of higher densities, but it states that backland development should be avoided where it gives rise to amenity issues. Due to the amenity issues that the appeal proposal would create in terms of privacy loss, outlook and noise disturbance, I consider the appeal proposal conflicts with Policy LLP25. In conclusion, the appeal proposal would create a poor standard of amenity for future occupiers and would cause harm to the living conditions of residents at Braeside, contrary to policy LLP25.

Biodiversity, Trees and Green Infrastructure

14. The Council states that the appeal proposal fails to respond positively to the townscape or street scene regarding natural features, including biodiversity trees and green infrastructure. However, the plans show the retention of existing trees on site and the planting of new trees and other soft landscaping, which could be secured by a planning condition in the event the appeal was allowed. The only trees to be removed are ones the appellant's Arboricultural Impact Assessment stated were unhealthy or in poor condition. There was no response from the Council's Tree Officer to refute this position.
15. Similarly, the appellant's Preliminary Ecological Appraisal did not find any reason why development should be prevented on biodiversity grounds. With no response from the Council's Biodiversity Officer to challenge this position, and with no other evidence before me, I have no reason to disagree with the appellant's position on this issue.
16. In conclusion, subject to appropriate planning conditions, I consider that the development would be able to respond positively to the townscape and street scene by providing natural features and green infrastructure. Thus, with regard to these elements, the proposal would accord with the aims of the criteria i., ii. and vi. of policy LLP25 of the LLP.

Other Matters

17. The Council's third reason for refusal also refers to lack of information relating to reducing carbon emissions or the risk of flooding, as advocated in criterion

viii. of Policy 25. I have no evidence before me to suggest the site is at risk of flooding and a sustainability statement and further information on building materials could have been requested by condition to address potential issues relating to carbon emissions if the appeal was being allowed. However, that is not necessary in this case as the appeal is being dismissed for other reasons.

Conclusion

18. For the reasons given, I conclude that the appeal should be dismissed.

J N Seymour

INSPECTOR