



Appeal Decision

Site visit made on 26 October 2023

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23.11.2023

Appeal Ref: APP/B2030/D/23/3326081

38 Maidenhall Road, Luton, LU4 8LA

- 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 Nazir Miah against the decision of Luton Borough Council.
 - The application Ref 23/00267/FULHH, dated 8 March 2023, was refused by notice dated 26 April 2023.
 - The development proposed is the erection of an outbuilding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues based on the Council's decision notice are:
 - Whether the building could be regarded as being incidental/ancillary to the enjoyment of the dwelling;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupants of the existing dwelling;
 - Whether the proposal meets with the Council's identified housing needs; and
 - The effect of the proposal on highway safety.

Reasons

Whether Ancillary

3. The appeal site is a semi-detached dwelling, which is situated in a prominent corner position at the junction of Maidenhall Road and Newyark Road. The surrounding area is characterised by relatively high-density housing with dwellings varying in size, scale and appearance.
4. The proposal is to construct a detached single-storey building in the rear garden/yard area with access onto Newyark Road. The building is described on the appellant's plans as a granny annexe and it would contain a living room, bedroom, kitchen, bathroom, store and integral garage. It is stated that it would be occupied by a disabled person.

5. The Council argues that the proposed outbuilding should be regarded as a separate dwelling due to its size and the self-contained nature of the accommodation shown. Policy LLP19 of the LP lists criteria against which proposals for annexes will be considered. These include the requirement for there to be a functional link between the principal building and the annexe; no sub-division of the garden areas; and it should be ancillary in terms of its size and facilities. Part C of the policy also states that if the annexe is self-contained and could function as a separate dwelling, the proposal would not be considered under Policy LLP19.
6. Buildings that are erected and contain the facilities as proposed by the appellant are generally regarded as being ancillary rather than incidental. Whether they create a separate planning unit depends on a number of factors including subdivision of the plot and the way in which the occupants would live their lives. The fact that they are self-contained is not necessarily determinative, as found in case law *Uttlesford DC v SSE & White (1992)*. Whilst that case related to the conversion of an existing building, it was concluded that a determining finding was that just because the annexe contained the normal facilities for day-to-day living (in that case a bedroom, kitchen and bathroom) did not mean, as a consequence, a separate dwelling and planning unit had been created.
7. The appellant points to the outbuilding being required for a disabled member of the family and that it would be sited close to the existing dwelling. Whilst I have some concerns over the size of the building, on balance the close proximity to the main house, the fact that no plot subdivision is proposed and the relationship between the occupants of the main house and the annexe lead me to conclude that the building can be regarded as ancillary development and not as a separate dwelling.

Character and Appearance

8. The Council states that the proposed building would be at odds with the scale and character of the existing dwelling and that it would lead to a loss of spaciousness within the site and the surrounding area. It cites a conflict with Policies LLP1, LLP9 and LLP25 of the Luton Local Plan (LP). These policies require development to respond to the character of the area; to be in keeping with the existing building; and to respond positively to the townscape and streetscene. These accord with Paragraph 130 of the National Planning Policy Framework (The Framework), which contains similar provisions.
9. The proposed building would be relatively large and it would occupy a significant area of the existing garden/yard. It would appear out of context with its surroundings mainly due to the size of its footprint and its cramped appearance. Properties on corner plots within the local area generally have relatively spacious rear gardens and the proposal would be at odds with this pattern of development. As such it would have an unacceptably harmful effect on the character and appearance of the area and, therefore, it would conflict with the LP and The Framework, as referred to above.

Living Conditions

10. The proposed building would occupy a large amount of the existing rear garden/yard area of the dwelling. Because of the central position of the building, the restricted and relatively narrow open areas that would remain

would have limited value as outdoor amenity space for both existing and future occupants. In urban areas, private outdoor space makes a positive and valuable contribution to the living conditions of the population.

11. Whilst this needs to be balanced against the provision of housing and making economic use of land, I consider that the proposal would unacceptably harm the living conditions of the residents. The proposal would, therefore, conflict with Policies LLP1 and LLP15 of the LP and with paragraph 130 of The Framework, which (amongst other things) seek to achieve high quality design and places and to ensure a high standard of amenity for existing and future users.

Housing Requirements

12. The Council's concerns on this issue are predicated on its view that the proposal should be regarded as a separate dwelling. However, I have concluded that the annexe can be regarded as ancillary. Notwithstanding, the Council points to an over-supply of one-bedroom units. It contends that the applicant has failed to justify the need for such accommodation.
13. Whilst the Council's evidence points to a surplus of one bedroom units, for the reasons relating to character and appearance and amenity space, I doubt if a larger unit would be acceptable to the Council. Furthermore, if the proposal was to be acceptable in all other aspects, I am not persuaded that the provision of one other unit would be significant in terms of the Council's strategic housing requirements. Consequently, I do not find against the proposal on this issue.

Highway Safety

14. Access to and from the proposed building would be via an existing access off Newyark Road. Visibility, in particular the ability to see pedestrians is and would be restricted by boundary walls. The Council contends that the proposal fails to provide adequate visibility splays and, therefore, the proposal would have a detrimental effect on highway safety and it would conflict with Policies LLP1, LLP25 and LLP32 of the LP and with the relevant provisions of The Framework.
15. As stated above, visibility is restricted and any additional vehicles leaving the site could pose an additional hazard to the safety of other highway users, including pedestrians. However, were the appeal to be otherwise acceptable, I consider that this issue could be satisfactorily addressed by imposing a suitably worded condition that would require splays to be approved and constructed prior to the building being brought into use. Accordingly, I do not find against the proposal for this reason.

Conclusion

16. Notwithstanding the benefits to the appellant in terms of providing accommodation for a disabled person, for the reasons given above in respect of character and appearance and living conditions, it is concluded that the appeal be dismissed

Ian McHugh

INSPECTOR