



Appeal Decision

Site visit made on 9 November 2023

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2023

Appeal Ref: APP/B0230/W/23/3322283

47 Moat Lane, Luton LU3 1UU

- 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 Manwar Hussain against the decision of the Council of the Borough of Luton.
 - The application Ref 23/00182/FUL, dated 6 March 2023, was refused by notice dated 27 April 2023.
 - The development proposed is new dwelling, single storey rear extension to existing house and associated car parking and access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of the occupants of 47 Moat Lane, with particular regard to overshadowing, outlook, and private outdoor amenity space.

Reasons

Character and appearance

3. The appeal site occupies a corner plot at the junction of Moat Lane and Fallowfield. Although there is some variety in building styles in the area, and some dwellings have been extended and altered, the prevailing character comprises two-storey semi-detached blocks with hipped roofs. The host property sits on a relatively large plot with a wraparound garden that is bordered by a low wall and fencing. The absence of substantial built form in the garden allows for public views across the site between Moat Lane and Fallowfield, which contributes a sense of spaciousness within the reasonably dense built-up area.
4. The host dwelling is paired with 1A Fallowfield, which has a single storey side extension. The bulk and mass that would be added to the host dwelling as a result of the proposed development would, by comparison, be substantial at two storeys high and with a similar width to the host property. Notwithstanding that it would be set back and set down from the host dwelling, and would be constructed with a hipped roof and matching materials, it would lack subservience to the host property due to its width and scale. Consequently, the

development would also unbalance the relationship between the existing semi-detached pair. It would, therefore, appear incongruent in the Fallowfield street scene.

5. The new dwelling would not breach the building lines on either Fallowfield or Moat Lane. However, unlike the dwelling immediately opposite the site at 51 Moat Lane, it would be orientated to face Fallowfield. Consequently, the development would have an awkward relationship with the Moat Lane frontage. Moreover, given the angle of the road, the rear and side elevations of the proposed building would be unduly dominant in views from Moat Lane when approaching from the west. It would bring substantial built form to what is currently a visually open and prominent corner, which would be out of keeping with and harmful to the character and appearance of the area.
6. On my site visit, I observed that the appeal site was largely laid to lawn and there was limited evidence of any well-established trees. Moreover, I have limited evidence before me to identify any trees that would be removed if the appeal were to succeed. Given that the appeal site is a domestic garden and there is no evidence to indicate that any trees on the site have statutory protection, it is unlikely there would be any material harm caused to local character through the loss of vegetation associated with the proposal.
7. My attention has been drawn to extended properties in the local area including at 8 Moat Lane and 53 Moat Lane. On my site visit, I observed these dwellings along with other altered properties. However, although I saw evidence of two-storey side extensions, I did not see any developments that were directly comparable to the appeal scheme by way of their width, scale, and orientation to street frontages. My assessment is based on the character and appearance of the area as it is now, which includes the aforementioned developments.
8. I conclude, therefore, that the proposal would cause harm to the character and appearance of the area. Consequently, it would be contrary, in that regard, to policies LLP1 and LLP25 of the Local Luton Plan 2011-2031 (LP) and the National Planning Policy Framework (the Framework) which, collectively and amongst other things, require development to be of high design quality that responds to local character. It would also be contrary to policy LLP15 of the LP which, amongst other things, supports housing provision where certain criteria are met, including that it would not result in over-intensification of the site.

Living conditions

9. The proposed development would project beyond the existing rear boundary line of No 47. However, the proposed single storey extension to No 47 would align with the proposed rear elevation of the new dwelling. Therefore, it is unlikely that there would be any material harm through overshadowing or outlook to the ground floor rooms of the host property.
10. The evidence also indicates that, as part of the development, internal alterations would be carried out to No 47 to relocate the existing bathroom to the rear of the property. If this were the case, any overshadowing or harm through outlook would be limited to a non-habitable room. Consequently, it is unlikely there would be any associated harm arising to the living conditions of the occupants.

11. The proposal would reduce the size of the private outdoor amenity space serving No 47. The retained amenity space would be below the Council's expected standard of 90sqm as set out in Appendix 6 of the LP. However, the LP also allows for smaller gardens where it would be appropriate to the character of the area and the design of the house. Whilst the guidance applies specifically to new dwellings, it provides a starting point for assessing the impact on the occupants of No 47.
12. The evidence indicates the retained private amenity space for No 47 would be circa 53sqm, which would exceed the minimum standard of 45sqm set out in the LP. Although this would be substantially smaller than the current outdoor amenity space, it would be more in-keeping with some other gardens in the area, and would be appropriate for the host property given its modest size. The garden would have level access and would be of a reasonable shape to enable the occupants to undertake a range of domestic activities within it, and it would therefore be sufficient. Moreover, the occupants of No 47 would also have access to a communal garden and nearby public open spaces.
13. I conclude, therefore, that the proposal would safeguard the living conditions of the occupants of 47 Moat Lane with particular regard to overshadowing, outlook, and outdoor amenity space provision. Accordingly, there would be no conflict, in those respects, with policies LLP1 and LLP25 of the LP, and the Framework, which collectively and amongst other things, seek to ensure that new housing meets local standards, minimises impacts on local amenity, and creates healthy places.
14. The Council has referenced policy LLP15 in its second reason for refusal. This policy sets out the provision that will be made for housing in the area. However, I have not found it to be relevant in my consideration of this issue.

Other Matters

15. In its Officer's report, the Council raised concern about the proposed hardstanding area for parking in front of No 47, although this did not form part of a reason for refusal. A number of other dwellings in the local area have similar parking layouts. Therefore, it is unlikely that any material harm would arise through this element of the proposed development.
16. The proposal would provide an additional dwelling within an existing settlement and would make more efficient use of the land. It would, therefore, support the government's objective to significantly boost the supply of homes. In that regard, the Framework recognises the contribution small sites can make to meeting local housing requirements. However, the contribution that would be made by a single dwelling would be very minor. Moreover, I have limited evidence before me to indicate there is a shortfall of housing in the local area. These benefits therefore carry limited weight in my consideration of the appeal.
17. The evidence indicates that the appeal scheme has evolved in response to a previous refusal of planning permission for development on the site. However, the planning history of the site is not a determinative matter, as I have necessarily considered the proposal on its own merits.
18. The appeal site and host building are not statutorily protected. No harm has been identified in respect of the internal living accommodation of the new dwelling, vehicle and cycle parking provision, flooding, or facilities for the

disposal of waste. From the evidence, I have no reason to take a different view on these matters. The absence of harm weighs neither for nor against the proposal.

Conclusion

19. The proposal would be contrary to the development plan when read as a whole. There are no material considerations before me that outweigh that conflict. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Catchside

INSPECTOR