



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: 19th December 2023

Appeal Ref: APP/B0230/W/23/3322623

47 Duncombe Close, Luton LU3 2HR

- 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 I Arif against the decision of the Council of the Borough of Luton.
 - The application Ref 23/00085/FUL, dated 7 January 2023, was refused by notice dated 15 March 2023.
 - The development proposed is construction of 2nr dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of the occupants of 47 Duncombe Close, with particular regard to outlook, daylight and sunlight, and private outdoor amenity space; and
 - highway safety having regard to parking provision.

Reasons

Character and appearance

3. The appeal site is positioned on the corner of Dewsbury Road and Duncombe Close. Although there are some nearby apartment blocks, most dwellings close to the site are formed in short, two-storey terraced rows in either buff or red brick with pitched roofs. The terraces are laid out in a staggered pattern which, along with wide verges and spacious corner plots, allows for views between and around buildings. This creates a sense of openness despite the tightly packed nature of the surrounding development.
4. The host property forms the end of a terrace that fronts Dewsbury Road and is accessed from the side elevation on Duncombe Close. It has a wraparound garden in a similar fashion to other corner plots in the locality. The position of the existing dwelling is broadly consistent with the building line on both affected streets, whereby dwellings are typically set back from the highway behind front gardens and driveways.
5. The proposal would extend the length of the host terraced block by adding an additional two-storey element adjacent to 47 Duncombe Close. The addition

would have a similar width and height to No 47 and would be constructed with brickwork to match the attached building. However, the front elevation of the proposal would incorporate a double height projecting bay feature and large windows, which would be at odds with the elevational treatment on the remainder of the terraced row. Consequently, the dwellings would have an incongruent appearance when viewed from Dewsbury Road and would fail to integrate sympathetically with adjacent dwellings.

6. The proposal would add significant bulk and mass to the side and rear of the host building. The development would fill space that, although bound by hedging and fencing, is absent of built form. The loss of this space would reduce views that are currently available across the gardens between 46 and 47 Duncombe Close. Consequently, it would reduce openness within the street scene which would be harmful to local character.
7. Moreover, the proposal would project forward of the building line on Duncombe Close and would therefore fail to respect the prevailing character of the area. At two-storeys, the development would be unduly prominent in longer views on Duncombe Close towards Dewsbury Road. Consequently, it would be overly dominant and would detract from local distinctiveness.
8. I conclude that the proposal would cause harm to the character and appearance of the area. It would therefore be in conflict with Policies LLP1, LLP15 and LLP25 of the Local Luton Plan 2011-2031 (LP) which, taken together and amongst other things, expect development to be of high-quality design that responds to local character and does not cause over-intensification of the site.
9. The proposal would also conflict with paragraph 130(c) of the National Planning Policy Framework (the Framework) which, amongst other things, seeks to ensure that developments are sympathetic to local character.

Living conditions

10. The proposal would project a number of metres beyond the original rear boundary wall of No 47 at two-storeys high. However, the submitted drawings show that the lounge, living room, and bedrooms 1 and 3 within No 47 have principal windows that are either sufficiently distant from, or would be level with, the facades of the proposed development. Therefore, it is unlikely that the proposal would cause material harm to the occupants of No 47 in terms of the outlook from, or the loss of daylight and sunlight to, these rooms.
11. However, notwithstanding that the first floor of the proposal would be set-in from the boundary between the properties, the outlook from the retained windows serving bedroom 2 and the kitchen would be compromised by views of the two-storey flank wall of the proposed dwellings. The effect of this would be overbearing when combined with the existing outlook to the side elevation of No 46. The effect of the proposal would be to partially enclose the nearest windows with built form, save for some views across the gardens of neighbouring properties. This would result in a poor outlook that would be harmful to the living conditions of the occupants of No 47.
12. The appellant has referred me to the drawings as evidence that there would be no loss of light to the nearest windows on No 47. However, the drawings do not

provide substantive evidence to illustrate the effect of the proposal on daylight and sunlight provision within the neighbouring property.

13. Based on the evidence provided, and given the depth, height, orientation, and proximity of the proposal to No 47, natural light could be restricted to some degree to the kitchen and bedroom 2 at least during the evenings and in winter when daylight hours are shorter. Moreover, even if it could be demonstrated that there would be no loss of light, this would not alter my view on the effect of the development on the outlook from bedroom 2 and the kitchen, and the associated impact on the living conditions of the occupants.
14. There is disagreement between the main parties as to the size of the retained amenity space for No 47. However, taking the appellant's measurements of approximately 45sqm as shown on the drawings, the proposal would comply with the Council's minimum standards for new dwellings. These standards allow enclosed rear gardens of 45sqm where it is appropriate to the character of the area and the design of the house. Although No 47 is a three-bedroomed property, it is compact in size and the retained garden would therefore be proportionate to the internal living space. The retained garden would be smaller than neighbouring dwellings, but not significantly so, and it would therefore be appropriate to the character of the area and the design of the house. Consequently, the proposed external amenity space for No 47 would be sufficient to safeguard the living conditions of its occupiers.
15. Whilst I have not found material harm in respect of the loss of outdoor amenity space, I conclude that the proposal would cause harm to the living conditions of the occupants of No 47, with particular regard to outlook, daylight and sunlight. This would be contrary to Policies LLP1 and LLP25 of the LP which, taken together and amongst other things, expect development to protect local amenity and to create healthy places.
16. The proposal would also be contrary to paragraph 130(f) of the Framework which, amongst other things, seeks to ensure development provides a high standard of amenity for existing and future users.

Highway safety

17. No 47 currently benefits from off-road parking provision, located adjacent to 46 Duncombe Close. The existing parking area would be repurposed to serve the new dwellings. Two replacement off-road spaces to serve No 47 are proposed, with access from Dewsbury Road.
18. No harm has been identified in relation to the position of proposed parking space P1. From the evidence, and my own observations, I have no reason to take a different view. However, concerns have been raised about the position of parking space P2 due to its proximity to the Duncombe Close junction.
19. I have not been directed to any specific standards for parking layouts that have been adopted as part of the development plan. However, from the evidence, there is no policy impediment to parking spaces being provided in a tandem format. Moreover, it is clear from the submitted drawings that a single vehicular crossover point is proposed to serve both parking spaces. Given that no harm to highway safety has been identified in respect of the position of the crossover to space P1, I find no material harm to highway safety would arise in

using the same crossover point to access space P2. The details of the vehicular crossover point could be secured through condition if the appeal were allowed.

20. I conclude that the proposed development would not result in harm to highway safety having regard to parking. It would therefore accord with Policy LLP31 of the LP which, amongst other things, expects development proposals to reduce the safety risk to motor vehicles and non-motorised and vulnerable users. It would also accord with Policy LLP32 of the LP which states that parking provision should not exceed maximum standards.
21. The proposal would also be in accordance with paragraph 111 of the Framework, which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

22. The appeal site does not lie within any statutory designations and is not at high risk of flooding. It would deliver some economic and social benefits, including the provision of additional homes within an existing built-up area, thus making more efficient use of the land. Moreover, the dwellings would not result in the loss of a use for which there is a recognised local need. However, the contribution that two dwellings would make to local housing supply is minor, and I have limited evidence before me to indicate there is a particular need for housing on the appeal site. I therefore attach limited weight to these matters in my consideration of the appeal.
23. I have been directed to a number of planning and appeal decisions for new dwellings in the local area. However, I have limited detailed information before me about the precise nature of those schemes and the circumstances that led to them being allowed. Moreover, from the evidence, the appeal schemes referenced were some distance from the site. They are therefore not directly comparable to the appeal scheme, which I have considered with respect to the prevailing local character of the area in which it is proposed.
24. My attention has also been drawn to permitted development rights (PD rights) for ground floor extensions to dwellings. However, the proposal is for a two-storey development that would comprise two new dwellings and therefore the PD rights for extensions are not directly relevant to the appeal scheme. This matter therefore carries limited weight in my consideration of the appeal.
25. The parties agree that the new dwellings would meet the Nationally Described Space Standards 2015 and therefore would be sufficient for future occupants. It is also common ground between the parties that the external amenity space provision for the new dwellings would exceed the Council's expected standards. Furthermore, no harm has been identified in respect of other matters including overlooking or public surveillance. Based on the evidence, and my own observations, I have no reason to take a different view on these matters. The absence of harm weighs neither for nor against the proposal.
26. The appellant contends that the Council was not proactive in allowing concerns to be addressed during the lifetime of the planning application. Potential amendments to the scheme fall outside the scope of this appeal, which has been considered on its own merits.

Conclusion

27. Whilst I have found no harm in respect of highway safety, I have found the development would cause harm to the character and appearance of the area and the living conditions of the occupants of No 47. The harm I have identified is sufficient to bring the proposal into conflict with 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