



Appeal Decision

Site visit made on 20 February 2024

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12.03.2024

Appeal Ref: APP/B0230/W/23/3327549

23 Atherstone Road, Luton LU4 8QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B Mullan against the decision of Luton Borough Council.
 - The application Ref is 23/00145/FUL.
 - The development proposed is the erection of 3 x bedroom detached dwelling.
-

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 effect on the living conditions of neighbouring residents; and
 - the effect of the proposal on highway and pedestrian safety.

Reasons

Character and appearance

3. The appeal site is within the rear garden of 23 Atherstone Road (No 23) which is on the corner of Atherstone Road and Thirlstone Road in an established residential area comprising mainly semi-detached houses with some detached houses. Properties on both roads are set back on their plots, and many have gardens and parking to the front which creates a sense of openness. Although there is some variation in the building line along Thirlstone Road, the side elevation of No 23 generally aligns with the front elevations of other properties along the road.
4. No 23 is detached. It is in a poor state of repair, but nevertheless it has a generous garden to the side and rear. Although at the end of the garden there is a double garage, this is a modest single storey building and overall, the combination of the generous side and rear garden at No 23 results in a strong sense of spaciousness at this prominent corner site which makes an important contribution to the character and appearance of the area.
5. I accept that the proposed roof pitch, use of a hipped roof design and many of the proposed design elements would reflect other dwellings in the area. Therefore, the roof form would not appear unacceptably discordant within this setting. However, the proposed development would result in the area at the

end of the garden of No 23 being occupied by a detached house of significant mass which would harmfully erode the sense of spaciousness in this prominent location.

6. Moreover, it would be apparent that the proposed dwelling would sit further forward than other houses along the same stretch of this road. This would be uncharacteristic of its setting. Although the existing building line is somewhat staggered, given that existing houses are set back on their plots, Thirlstone Road has a coherent building line which the proposal would harmfully disrupt.
7. The front elevation of the proposal would be sited very close to the pavement and the rear elevation would be sited close to the common boundary with 25 Atherstone Road (No 25). As a result, the proposal would appear unacceptably cramped on the plot and would represent an over-intensive form of development that would appear incongruous within this setting.
8. I have taken account of other properties that have been brought to my attention including the newly constructed property adjacent to 48 Thirlstone Road. However, like other properties along the road, this is set back by some distance from the pavement and as a result, this and the other properties identified by the appellant do not have the same relationship with their surroundings as the proposed development and are materially different. Therefore, these other examples, do not justify harmful development at the appeal site.
9. I therefore conclude that the proposed development unacceptably harms the character and appearance of the area in conflict with Policies LLP1, LLP15 and LLP25 of the Local Luton Plan, 2011-2031, November 2017 (LLP). Amongst other things these seek to ensure development is of a high-quality design that responds to and enhances local character and that does not result in an over intensification of the site. The development is also at odds with the National Planning Policy Framework (Framework) which seeks to ensure that developments are sympathetic to local character.

Living conditions

10. A first-floor bedroom window would face towards the side elevation of 37 Thirlstone Road. This property also has a window at first floor level. However, this does not appear to be a principal window serving a habitable room. Further, the proposed dwelling would be set away from this house by some distance. This separation would be sufficient to ensure that there would not be an unacceptable degree of overlooking or loss of privacy.
11. The side elevation of the proposed development would be set back by some distance from the rear elevations of 23 and 25 Atherstone Road (Nos 23 and 25). As a result, the proposal would not appear overbearing or unacceptably impact the outlook from any rear facing windows or the outside areas immediately outside the rear elevations of these properties or from the garden area of No 23. Moreover, given that the retained garden area of No 23 would wrap around the house, it would be sufficient to serve the outdoor amenity needs of the residents of this property.
12. However, as outlined above, the proposed rear elevation would be set back by only a small distance from the common boundary with No 25. The proposed development would result in the introduction of a substantial two storey block

of development with an overall height that would be visible from the garden area of this neighbouring property, particularly the part of the garden immediately next to the appeal site. Due to the height, mass, and scale of the proposed dwelling, it would unacceptably dominate the outlook from the garden area of this neighbouring property and would appear overbearing. Consequently, the proposed development would be detrimental to the living conditions of the residential occupiers of No 25.

13. I therefore conclude that the proposal would have an unacceptable harmful impact on the living conditions of the occupants of 25 Atherstone Road as the proposal would appear overbearing. As a result, the proposed development would conflict with Policies LLP1, LLP15 and LLP25 of the LLP which amongst other things seek to ensure that development proposals are of a high-quality design that does not give rise to adverse amenity and adheres to the best practice principles of urban design. The proposal would also be at odds with the Framework which seeks to ensure development creates places with a high standard of amenity for existing and future users.

Highway Safety

14. The local highway authority did not object to the proposed development. However, the Council have expressed concern that the location of the cross over relative to the junction would not satisfy the 10-metre distance required by the Council's crossover providers and this would likely result in on-street parking to the detriment of highway and pedestrian safety.
15. The proposed parking spaces to serve the proposed dwelling would be located more than 10 metres away from the junction and so I am satisfied that satisfactory parking would be provided for the proposed dwelling. I accept that the proposed parking spaces to serve No 23 would be within 10 metres of the junction. However, it would appear that the existing garages at the end of the garden of No 23 have not been used for some time and there are no other existing parking spaces that serve this property.
16. Moreover, the Framework is clear that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. I observed at my site visit that there was not a significant amount of parking pressure within the area and there was ample on street parking available along both Thirlstone Road and Atherstone Road. I accept that this was only a snapshot of the situation and parking conditions could vary depending on the time of day. However, my observations are supported by the fact that there are no parking restrictions within the vicinity of the appeal site. Therefore, in the event that the proposed parking spaces proposed at No 23 could not ultimately be provided I consider that safe and convenient on street parking would be available.
17. I therefore conclude that the proposal would not result in an adverse impact on highway or pedestrian safety. The Council did not cite any development plan policy in support of their reason for refusal, however for the reasons outlined above the proposal would accord with the Framework.

Other Matters

18. I have taken account of all other matters raised, including that the proposal would make efficient use of the appeal site, which is located within a

sustainable location, comprises redundant garages, would provide a family sized home which would meet a local need and would result in economic benefits. However, these other matters do not outweigh the harm I have identified above.

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

S Rawle

INSPECTOR