



Appeal Decision

Site visit made on 25 July 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 29th August 2024

Appeal Ref: APP/B0230/W/24/3338719

30 Lancing Road, Luton LU2 8JN

- 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 Warren Canney against the decision of Luton Borough Council.
 - The application Ref is 23/00609/FUL.
 - The development proposed is the erection of an attached two bedroom dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description used in the application form repeated the location of 'Luton' in the address. To improve clarity, the banner heading has been updated to remove the duplicate.
3. An alternative design has been proposed by the appellant, aligning the new dwelling's front, rear aspects and ridgeline with the existing ones, and altering the garden layout to alter the division of amenity space¹. These plans, submitted with this appeal, would significantly change the layout and appearance from what the Council originally reviewed.
4. Case law requires assessing whether amendments during an appeal constitute a 'substantial difference' or 'fundamental change' and whether they would cause procedural unfairness. The appeal process is not intended for evolving or modifying a scheme. The proposed amendment fundamentally alters the original design considered by the Council. This is a significant change that affects the determination of the appeal. Since it hasn't been consulted on, it fails to meet the legal criteria set out in caselaw. As such, I will not accept it and will consider the original plans instead.

Main Issues

5. The main issues are:
 - the effect of the proposal upon the character and appearance of the surrounding area; and

¹ Appendix D – Appellant's Full Statement of Case

- the effect of the development on the living conditions of the occupiers of 30 Lancing Road, with regard to amenity space.

Reasons

Character and Appearance

6. The appeal site consists of a semi-detached house with a garden, situated on a corner plot at a bend in the road. The house forms half of a pair of two-storey houses which are typical of development in the surrounding area. The immediate street scene is generally characterised by evenly spaced pairs of semi and short terraced rows of houses which are aligned in an ordered manner, often framing small areas of open space. These characteristics, along with the generally broad width of the highway and footways, combine to give the street scene a strong rhythm and rather spacious feel. The open spaces within the properties and in the cul-de-sac contribute to a feeling of spaciousness in an otherwise densely built urban environment.
7. The proposed development would extend the pair of semi-detached houses, by constructing another two-storey attached dwelling in the rear and side garden area of the appeal site. It would increase the density of housing, by occupying land that was previously used as a garden area. While this approach may be more efficient for housing, it would disrupt the established balance and rhythm of the existing buildings and the surrounding development pattern. Additionally, the loss of this garden land would negatively impact the overall sense of spaciousness.
8. In reaching this view, I have considered that the lower ridgeline of the proposed development would preserve the original form of the existing paired semi-detached houses and reflect the stepped arrangement of some of the other properties on the street. However, because it would not match the profile or height of the adjoining properties, it would appear unusual and disrupt the continuity of the row.
9. Due to the location of the appeal site as a corner property, along with the reasonably open aspect of the site frontage, the proposed development would be highly prominent. As a result, it would be readily apparent from the public realm and would have a significant, disruptive effect on the street scene.
10. The appellants have attempted to address concerns from previous applications by modifying the design to attach the proposed development to the flank wall of No. 30. However, this change does not resolve the issues of lost spaciousness or the creation of an asymmetrical ridgeline. Therefore, this revision carries limited weight.
11. In conclusion, the proposed development would harm the character and appearance of the surrounding area. It would not respond positively to the street scene, site and building context, contrary to Policy LLP25 of the Luton Local Plan 2017 (the LP). Accordingly, it would fail to accord with local plan policies, contrary to LLP1 of the LP. It would also fail to be sympathetic to local character, contrary to Section 12 of the National Planning Policy Framework (NPPF).
12. The Council alleges conflict with Policy LLP15 of the LP. However, this policy primarily addresses the need for homes to match identified housing requirements in terms of size, type, and tenure. My attention has not been

drawn to any wording in this policy that relates to this main issue. It has therefore not been determinative in my decision on this issue.

Living Conditions

13. Policy LLP25 of the LP requires new housing to meet specific external amenity standards which are specified in Appendix 6. For new dwellings, this policy mandates a minimum enclosed rear garden area of 90 square meters, except for one- or two-bedroom units, where a smaller area may be acceptable. Smaller enclosures could also be acceptable having regard to the character of the area and design of the house, but in any event, shall be no smaller than 45 square meters.
14. The plans indicate that the proposed development would include an amenity area of approximately 73 square meters. However, the existing dwelling at No. 30 would see its amenity space reduced to about 52 square meters. This reduction is significant, particularly for a three-bedroom property, and falls below the recommended standards. Although Policy LLP25 specifically addresses new housing, it remains relevant in this context because it sets a benchmark for the quality of amenity space that should also apply to the existing dwelling. Although larger than 45 square meters, the limited garden space at No. 30 would still result in cramped and inadequate living conditions for its occupants. Even if I were to accept the alternative design proposed by the appellant, it would still not provide the recommended 90 square meters of amenity space for both the existing and proposed dwellinghouses. Therefore, the proposed development would not provide satisfactory living conditions for future occupiers or result in a high-quality home.
15. In conclusion, the proposed development would not provide adequate living conditions for the occupiers of 30 Lancing Road, with regard to amenity space. It would not provide an adequate amount of external amenity space, contrary to policy LLP25 of the LP. Accordingly, it would fail to accord with local plan policies, contrary to LLP1 of the LP. It would also fail to promote health and wellbeing, with a high standard of amenity, contrary to Section 12 of the NPPF.

Other Matters

16. There would be some benefits through the addition of one unit in an accessible location as well as an associated economic uplift from the construction process and future spending of occupiers. However, those benefits would be relatively modest and would only attract limited weight. Accordingly, none of these other matters outweigh or overcome my conclusion on the main issues.
17. I have considered representations regarding parking provision and highway safety. However, these are not matters which affect my findings on the main issues.

Conclusion

18. 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. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR