



Appeal Decision

Site visit made on 16 July 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/B0230/W/24/3341139

13 Santingfield North, Luton LU1 5LS

- 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 Lee Hodgson against the decision of Luton Borough Council.
 - The application Ref is 23/01395/FUL.
 - The development proposed is the erection of a one bed bungalow.
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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; and
 - the living conditions of the occupiers of 11 and 15 Satingfield North, 2 Godfreys Close, and 73 and 75 Northdrift Way, with particular reference to noise and disturbance.

Reasons

Character and appearance

3. The appeal site contains a semi-detached property with a large and unusual shaped plot compared to surrounding properties. Towards the end of the rear garden, the garden widens and extends across the rear boundary of the adjoining property (No 15).
4. Built form locally is defined by semi-detached pairs fronting the highway. Dwellings tend to be forward of the plot facing the highway, with a uniform building line and good-sized linear gardens extending to the rear. General comings and goings are typically focused to the front of the properties, with more subdued and tranquil private garden spaces to the rear. The layout of the houses results in a sense of cohesion and provides a pleasing suburban character, typical of inter war housing.
5. The proposal would subdivide the existing plot and create a cramped arrangement which would be at odds with the prevailing pattern of built form in the vicinity. The awkward nature of the subdivision would be accentuated by the proposed dwelling having no road frontage and it being tucked behind a garage area in a corner, accessed only from a road serving the existing garages.

6. Whilst the proposed dwelling would have the required private amenity space set out in Appendix 6 of the Local Plan, the plot size would be small. The size of the proposed garden is compared to the garden at 2 Godfrey Court, rather than those on Satingfield North and Northdrift Way, which better reflect the prevailing character. Godfrey Court is a well-designed holistic development with landscaping to the front of the flats and dwellings, in addition to small gardens serving the semi-detached houses. These properties also have a road frontage and gardens to the rear, the layout is therefore not comparable to the contrived infill development proposed. Altering the proposed boundary between the proposed and extant dwelling would not address this harm, as it would not address the awkward nature of the plot.
7. The parties refer to appeal ref APP/B0230/W/22/3293951 but the full details of this appeal have not been provided. Whilst the appeal referred to the garden depth and size being substantially less than neighbouring houses, the evidence does not refer to the pattern of built form in the locality or the layout of the plot. In any event, the circumstances in this case are site specific and therefore the relevance of this decision is limited.
8. Reference is made to the fallback position of the extant lawful development certificate for an outbuilding to be used as a home office, games room and store (Ref 23/00974/LAWP). There is a real prospect that this development will be implemented and as such it is a material consideration in my assessment. Whilst the certificate proposes a building virtually identical to the proposed dwelling, the subdivision of the plot and the proposed use would be materially different.
9. The incidental structure would operate as an integral part of 13 Satingfield North and would maintain the typical domestic, subservient character of an outbuilding within a rear garden. In contrast, a new dwelling would result in the subdivision and over intensification of the existing plot, and a new, standalone home within an inherently contrived location. The incongruous siting of the development would be emphasised by the likely atypical presence of domestic paraphernalia within a backland location, such as signage, access and bin storage.
10. As a result, the development as detailed in the certificate would have a less harmful effect on the character and appearance of the area compared to the appeal scheme, therefore it does not provide justification for the appeal in respect of this issue.
11. For the reasons identified above, I conclude that the proposed development would have an unacceptable effect on the character and appearance of the area. The proposed development is therefore contrary to policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031. These policies seek to avoid over intensification of sites and require new development to respond to and enhance local character and provide continuity of built form.

Noise and disturbance

12. The proposed plot adjoins the rear boundaries of 15 Satingfield North, 73 Northdrift Way and the side boundaries of 2 Godfrey Close and 75 Northdrift Way. In addition, the proposed access, off of Godfrey Close is in close proximity and runs parallel to the flank wall of 2 Godfrey Close.

13. The proposed dwelling would increase the use of the narrow access road by virtue of the occupiers, visitors and deliveries accessing the site. Whilst only providing one new parking space, the use would negatively change the nature of this rear access from a lesser used rear access to a primary one, providing the only means of access to the proposed dwelling. The additional use of the access road would therefore result in unacceptable noise and disturbance to 2 Godfrey Close due to the primary access to the dwelling being located adjacent to typically quieter and more tranquil rear gardens.
14. The use of a one-bedroom dwelling would be different in nature to an incidental building and would result in greater use of the access road. In contrast, access to the incidental ancillary building would likely only be via the main property. However, the incidental building would have an unrestricted use, and could be accessed around the clock and used by multiple people. As a games room it is likely that activity could be in the evening with additional guests and music. Logically, it would have an equivalent impact in term of noise and disturbance when compared to the small, proposed dwelling, the fallback position therefore weighs in favour of the scheme in this respect.
15. For the reasons identified above, I conclude that the proposed development would have an unacceptable effect on the living conditions of the occupiers of 11 and 15 Satingfield North, 2 Godfreys Close, and 73 and 75 Northdrift Way, with particular reference to noise and disturbance. As such, it would conflict with Policy LLP25 of the Luton Local Plan 2011-2031 insofar as it specifies that back land development should not give rise to adverse amenity. However, given that commensurate effects would likely be achieved by the fallback position, I attribute this conflict limited weight.

Other Matters

16. The proposed development provides parking for the dwelling on site and parking bays to serve the existing dwelling in the rear garden of the main property. Whilst concerns have been raised about this arrangement impeding current parking provision, access to the three garages in the access lane would remain and the appeal scheme complies with parking standards within the development plan.

Planning Balance and Conclusion

17. The proposal would conflict with the development plan when read as a whole. The impact of the proposed development on the character and appearance of the area arising from the subdivision of the plot and change in character resulting from the use, must carry substantial weight in the balance. Given the foregoing, harm to the living conditions of neighbouring properties would carry limited weight.
18. The appellant has a protected characteristic for the purposes of the PSED. In determining this appeal, I have had due regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010 and its aims to (a) eliminate discrimination, harassment, victimisation and any other prohibited conduct (b) advance equality of opportunity between persons who share a relevant protected characteristic and do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

19. The intended occupier of the dwelling has mobility issues and whilst the proposed dwelling could be fully adapted to his needs, there does not seem to be any reason in the evidence before me why suitable alternative accommodation could not also be sought. Having regard to this matter, I attach limited weight in favour of the appeal scheme to the personal circumstances of the appellant.
20. Whilst the fallback position lends weight to the scheme with regard to its effect on neighbouring living conditions, it does not justify departure from the development plan with reference to the harm that would arise to character and appearance.
21. For the reasons given above, the proposed development conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. With reference to the PSED, I consider that my decision to dismiss the appeal is proportionate.
22. I therefore conclude that the appeal should be dismissed.

V Goldberg

INSPECTOR