



Appeal Decision

Site visit made on 23 October 2024

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2024

Appeal Ref: APP/B0230/W/24/3345852
87 Talbot Road, Luton LU2 7RN

- 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 Param Gandhi against the decision of Luton Borough Council.
 - The application Ref is 23/01099/FUL
 - The development proposed is erection of a one bedroom attached dwelling house with front boundary wall after demolition of existing garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would have an adverse impact on:
 - the living conditions of present and future occupants of the neighbouring properties, particularly No 87, in terms of proximity and loss of outlook, loss of light and private amenity space and loss of the garage;
 - the living conditions of future occupants of the proposed house in terms of available internal space and access to private amenity space.
 - the character and appearance of the terrace of properties and the surroundings on Talbot Road;

Reasons

3. The appeal site is located on the west side of Talbot Road, a narrow street lined by small, two storey terraced housing in brick and render. There is a uniformity to much of the northern end of Talbot Road although the terrace designs on each side of the road are different. No 87 although it forms part of the terrace comprising Nos 79 to 85 is to a slightly different design and slightly wider on the frontage.
4. The proposed two storey dwelling would be positioned on the site of the single storey, flat roofed garage adjoining No 87 and would be similar in height and form to the adjoining terrace.

Living Conditions

5. The plot of No 87 although extending to include the single storey garage on the north side tapers slightly in a westerly direction. As a result of this the design of the proposed dwelling would be 'cranked' slightly towards No 87 on its rear section. The dwelling would extend beyond the rear elevation of No 87 by about 4

metres forming a courtyard to the rear of No 87 only 2 metres wide. A principal habitable room window and a kitchen window in No 87 would look out into this space. The height and proximity of the rear section of the proposed house, even with a flat roof as proposed, would be completely overbearing on these windows substantially affecting the outlook from them and severely compromising daylight levels reaching the rooms.

6. There would be a further impact for the occupants of No 87 as not only would the garage space be lost but the ability to access the rear of the property externally would also be lost along with a significant reduction in the available private amenity space and the enclosing effect of a 2 metre high close-boarded fence on this reduced space. Together there would be a significant detrimental impact on the living conditions for the occupants of No 87.
7. With regard to the neighbouring properties on Stockingstone Road (Nos 21 and 23) the proposed dwelling would be only 12 and 11 metres respectively from the rear elevations of these properties. Whilst there would be no overlooking in this direction, the proposed dwelling would be immediately adjacent to the courtyard to the rear of No 23 and on its south side. The dwelling would result in additional overshadowing of the courtyard particularly in the winter when the sun is lower in the sky and would be overbearing on it. The impact for No 21 would be different in that the rear garden there would be separated by the remaining single garage. However, the increased height of the pitched main roof to the new dwelling would also add to overshadowing in No 21's garden.
8. Turning to the living conditions of future occupants of the proposed dwelling although the proposal is that this would be occupied by only one person and the proposed space would be adequate for this, there would be no way of effectively controlling occupancy numbers. The size of the two storey dwelling is insufficient to meet the minimum standard for 2 people set out in the *Technical Housing Standards – Nationally Described Space Standard* although I acknowledge that the shortfall is small. In addition, although the Council states that the proposed private amenity space would meet the standards in Appendix 6 of the *Luton Local Plan* (LLP) this is not in fact the case. The standards state that in any event the minimum acceptable amenity space is 45m² for a house and the plot as subdivided would not be sufficiently large to provide this. The space proposed is approximately 30m² and would be likely to compromise the ability to carry out normal activities of drying clothes, sitting out etc.
9. Even if I was to accept that the shortfall in space standards would be minor, the fact that the relationship with No 87 at the rear would be completely unacceptable indicates that the proposal would be an over-intensification of development and therefore in direct conflict with Policy LLP15 of the Local Plan.
10. The *National Planning Policy Framework* (the Framework) at Paragraph 135 regarding design states that decisions should ensure a high standard of amenity for existing and future users. Policy LLP25 of the LLP reflects this in requiring that new housing development does not adversely affect the amenity of nearby occupiers and that it delivers amenity space in accordance with standards. The proximity of the new dwelling to neighbouring properties and its overbearing and overshadowing impact particularly on the rear windows of No 87 and the impact on private amenity space would be contrary to the Framework and Policy LLP25.

Character and Appearance

11. I acknowledge that the proposed design would continue the terraced theme of Talbot Road and at least on the frontage would utilise the same materials as used in the neighbouring terrace.
12. It has been put to me that the fact that the frontage width of the property would be approximately half the width of No 87's frontage would have the effect of making the development look cramped. However, No 87 is different to the rest of the terraced properties on the west side of the road being wider than most of the them and, taken in the context of the terrace as a whole, I am not persuaded that the scale and frontage width, of itself, would necessarily have a detrimental impact on the appearance of the frontage.
13. Of greater concern in terms of the impact on the character and appearance of the surrounding area of Talbot Road is the proposed fenestration design which would lack any bay detail and be noticeably of a smaller scale to the rest of the terrace. In addition, the introduction of the flat roof at height over the rear two storey offshoot would be readily visible from the street. Whilst I note there is a flat-roofed dwelling opposite on Talbot Road this is an exception and serves to demonstrate the detrimental impact this roof form would have in an area where the development form is almost exclusively of pitched, tiled roofs. As a result of these factors the proposal would appear as somewhat incongruous in the context of Talbot Road.
14. The Framework at paragraph 135 requires development to add to the overall quality of the area, be visually attractive and be sympathetic to the local character amongst other things. Policy LLP 25 of the LLP reflects this in requiring development to enhance the distinctiveness and character of the area responding positively to the site and building context. In part the proposal would achieve this but aspects as set out above would conflict with the policy in respect of character and appearance.

Other Matters

15. I accept that the proposal would provide a new starter size home in a sustainable location in Luton relatively close to the town centre and to public transport. In that way it would make a small contribution to providing a mix of housing in Luton sought by LLP Policy LLP15. I also acknowledge that it would constitute the effective use of land on small housing sites by building to a high density encouraged by the Framework at Paragraph 70 and Policy LLP25 thus supporting the Government's objective to significantly boost supply.
16. The latest published housing supply position shows that the Council cannot demonstrate a 5 year supply of housing land with only 3.36 years supply. Although the latest available *Housing Delivery Test* in 2022 demonstrates that housing delivery then was well ahead of target, for the purposes of paragraph 11 of the Framework the policies concerned in the delivery of housing are not therefore up to date and the 'tilted balance' set out in the Framework would apply.
17. With the Framework's 'tilted balance' triggered it is important to apply that balance. Paragraph 11d) of the Framework provides that the presumption in favour of development should apply other than in two circumstances. The second of these applies in this case, namely where any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This would be the case here where the harm to living conditions in particular for the occupants of No 87 is so significant as to outweigh the minor benefit of one additional, small, housing unit. This provides a clear reason for refusing permission for the development proposed and it would not therefore benefit from the presumption in favour of development.

18. The Council and third parties have expressed concern over a number of other matters including unsatisfactory arrangements for EV charging, the loss of the garage which would make parking problems worse and that the construction will lead to structural issues regarding the party wall. Whilst I note these points and accept that, in part, they may be resolvable by condition, I have concluded on the main issues that the proposal would not be acceptable and there is no need to consider these matters further.

Conclusion

19. In reaching my decision I have had regard to the matters before me. Notwithstanding the slight benefit the development would bring in adding to housing supply, this would not outweigh the substantial harm particularly in respect of living conditions and the proposal therefore conflicts with LLP policies in particular Policy LLP25. Moreover, the above assessment in terms of Paragraph 11 of the Framework shows that the presumption in favour of development would not apply and would not be a material consideration that would justify a departure from the Development Plan policies.
20. For the reasons above the appeal is dismissed.

P. D. Biggers

INSPECTOR