
Appeal Decision

Site visit made on 23 October 2024

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/B0230/W/24/3343249

Land rear of 29 Laburnum Grove, Luton LU3 2DW

- 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 Harkmac Developments Ltd against the decision of Luton Borough Council.
 - The application Ref is 23/01261/FUL.
 - The development proposed is erection of 3 three bedroom chalet bungalows with parking and associated works after demolition of existing dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 three bedroom chalet bungalows with parking and associated works after demolition of existing dwellinghouse at land rear of 29 Laburnum Grove, Luton LU3 2DW. The permission is granted in accordance with the terms of the application Ref 23/01261/FUL, dated 3 November 2023, subject to the conditions included in the Schedule at Annexe A.

Preliminary Matters

2. The description of development used on the appeal form and decision notice more accurately reflects the proposal than the one used on the application form. As such, this description has been used in the heading and decision above.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the appeal site and the surrounding area.

Reasons

4. The appeal site is formed by the plot of No 29 and includes a rectangular area of open land behind the gardens of Nos 27 to 35. The site is surrounded by residential development, with rear gardens adjoining all sides of the site. The wider area is residential in character.
5. The current proposal is a resubmission of a previous unsuccessful application for residential development of the site for four dwellings¹. While I note this earlier

¹ Ref 23/00820/FUL.

proposal and decision, this appeal involves a separate proposal which I have considered on its own merits.

6. Policy LLP1 of the Luton Local Plan 2011-2031 (2017) includes the requirement that all new development should contribute to enhancing a sense of place and preserve or improve the character of the area. Policy LLP15 concerning housing provision states that new housing should not result in over-intensification of the site. Policy LLP25 requires high quality design, including that proposals should enhance the distinctiveness and character of the area.
7. My attention is drawn to an appeal decision involving the erection of a new dwelling on part of the appeal site behind No 31 Laburnum Grove². In that case the Inspector found in respect of the backland location that a lack of conformity to the established pattern of development in the area does not necessarily amount to harm.
8. I am mindful that appeal decisions should be consistent and, therefore, I agree that the principle of development in this location is not harmful of itself; rather the principal consideration with regard to the main issue is the effect of the particular form of development proposed in this case. Moreover, I note that a more limited form of backland development already exists within Laburnum Grove, at No 10A where a single dwelling is positioned behind the properties with frontages on the street. Consequently, the gap in the road frontage to provide access to the appeal site would not be an uncharacteristic feature within the street scene.
9. The predominant dwelling type in Laburnum Grove is single storey dwellings, with a limited number of other property types, including chalet bungalows. I have had regard to the arguments concerning whether the proposed dwellings are chalet bungalows or are more akin to two storey dwellings, as the Council contends. I acknowledge in this regard that the dwellings include upper floor accommodation across most of the footprint of the dwelling. However, in terms of height and appearance the dwellings would not be dissimilar to No 31 directly next to the appeal site. Furthermore, there are examples of other dwellings nearby of similar height with substantive upper floor accommodation, notably Nos 23 and 25. In addition, two storey dwellings are not uncommon in the area, particularly properties adjoining the site with frontages on Pegsdon Close.
10. Therefore, the proposed dwellings would not be uncharacteristic compared to a number of established properties close to the appeal site. Moreover, the Inspector in the earlier appeal found that due to the distance of the site from the road frontage, views of the dwelling from the public realm would be significantly restricted. I acknowledge that the earlier appeal involved a single bungalow of more limited height than the three dwellings currently proposed. However, given the distance from the road, the tree cover and the taller dwellings close to the appeal site, any views of the dwellings would be limited and not incongruous in the wider residential setting.
11. The gardens of the new dwellings would meet the requisite amenity space standards, but the Council contends that they would not reflect the characteristic long gardens and larger plots of properties on Laburnum Grove. While Nos 25 to

² APP/B0230/W/16/3151184 dated 14 September 2016.

37 do have generous rear gardens, other dwellings on Laburnum Grove and Wodecroft Road have materially smaller back gardens that are not dissimilar to the size of the proposed dwellings' gardens. As such, the proposal would not result in over-intensification of the site. Moreover, as found above, the dwellings would not readily be seen from the public realm and would be well-separated from the established dwellings due to the surrounding properties' gardens backing onto the site.

12. With regard to external materials, the white render proposed for the external walls is present on Nos 23 and 25 as well the bungalows on the other side of Laburnum Grove. Grey window frames are also a feature of No 25, which is much more prominent in public views than the proposed dwellings would be. For these reasons, the proposed external materials would not be uncharacteristic or otherwise incongruous. Furthermore, I note that the Council suggests a condition to require approval of the details of external materials and the appellant states that, notwithstanding the submitted plans, they would accept such a condition. As such, the Council's concerns in this regard would be overcome.
13. Therefore, for the above reasons, I conclude that the proposal would not have a harmful effect on the character and appearance of the appeal site and the surrounding area. Consequently, the proposal is not contrary to Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2011-2031, as described. It is also not contrary to the National Planning Policy Framework (the Framework), which advocates good design.

Other Matters

14. I have had regard to the representations made by interested parties. Matters concerning noise from car parking, drainage, the possible effect of development on established trees and maintenance of trees and landscaping can be addressed by conditions proposed by the Council. There is no evidential basis to find that parking by non-residents is likely to occur on the site or that the development will be harmful to highway safety. Similarly, there is no reason to find that refuse and recycling waste collection cannot be undertaken satisfactorily.

Conclusion and conditions

15. For the reasons given above, the appeal should succeed.
16. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development in accordance with the submitted details, one requiring development to be carried out in accordance with the approved plans and other relevant documents.
17. In addition to the conditions already referred to, conditions requiring a construction method statement and light attenuation are necessary to safeguard neighbouring occupiers' living conditions. Conditions to require completion of parking areas before occupation and to restrict use of the dwellings for their intended purpose are necessary in the interests of the character and appearance of the site and surrounds. Provision of an electric charging point and cycle storage should be required by condition in the interests of sustainable development.

18. Three of the suggested conditions are pre-commencement conditions. The Framework indicates that this type of condition should be avoided unless there is clear justification³. As these concern further investigation of the effects of the development on established trees and any subsequent protection measures, I consider that such justification does exist for their imposition.
19. The Framework also says that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so⁴. While I note the Council's reason for the suggested conditions restricting such rights in the interests of amenity, I consider that in the light of the circumstances of this case and guidance in the Framework, sufficient justification does not exist to restrict the relevant permitted development rights. Accordingly, I have not imposed the suggested conditions.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and specifications: NA-23076-PL-102, NA-23076-PL-201, NA-23076-PL-202A, NA 23076-PL-401, TPP/29LGLB/010B, 07220/R01-01, DC01, DC02, DC03 and DC04.
- 3) Prior to the commencement of above-ground works, full details of the materials to be used in the construction of the external elevations of the development shall be submitted in writing to the Local Planning Authority for approval. The development shall be carried out only in full accordance with those approved materials and shall be retained as approved thereafter.
- 4) No development, including any works of demolition, shall take place until a Construction Method Statement (CMS) has been submitted in writing to the Local Planning Authority for approval. The approved Statement shall be adhered to throughout the demolition/construction period. The Statement shall provide for:
 - (i) Operating hours: No demolition, construction or contaminated land remediation activities, movement of traffic, or deliveries to and from the premises, shall occur other than within the hours agreed with the Local Planning Authority. Any

³ Paragraph 56.

⁴ Paragraph 54.

proposed extension to these agreed hours, other than for emergency works, shall be agreed with the Local Planning Authority before work commences;

- (ii) the parking of vehicles of site operatives and visitors;
- (iii) a dilapidation survey demonstrating the condition of the highway, inclusive of crossovers, kerbs and pedestrian footways, prior to the commencement of demolition and construction to be used for comparison following the completion of works and first operation of the development;
- (iv) loading and unloading of plant and materials, and storage of plant and materials used in constructing the development;
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vi) wheel washing facilities; and
- (vii) measures to, where appropriate, manage the safe removal and disposal of asbestos material.

The development shall then only proceed in strict accordance with the approved details.

- 5) Prior to the commencement of development, further site investigations must be undertaken to establish potential root growth of trees below the existing buildings within groups 3, 4 and 5 to the west of the site. Works are to be undertaken using hand tools only and any open dug trial holes are to be kept to maximum size of 600mm x 600mm and 1000mm deep. An air-spade should be utilised to undertake excavation works near any exposed roots. Photographic records are to be retained of any roots found along with a record of their depth below ground level and the outside diameter of the root(s), and these shall be submitted in writing to the Local Planning Authority for approval.
- 6) Prior to the commencement of development, details of scaled drawings showing the design and location of the proposed foundation types taking into account any roots found within Condition 5, shall be submitted in writing to the Local Planning Authority for approval.
- 7) Prior to the commencement of development, the setting out of the position of the tree protection measures shall be overseen by a Project Arboriculturist [PA], (to be appointed by the applicant), to ensure the correct location of the said protection measures complies with the approved Arboricultural Method Statement [AMS]. The PA is to organise with the Council Arboricultural Officer a site meeting to ensure that the Council Arboricultural Officer is satisfied with the protection methods installed on site. All details shall be submitted in writing to the Local Planning Authority for approval.
- 8) Prior to the first occupation of the development hereby permitted full details of boundary treatment including details of acoustic fencing, shall be submitted in writing to the Local Planning Authority for approval. Those approved details shall be implemented prior to first occupation of the development and retained thereafter for so long as it remains in existence.

- 9) Prior to the first occupation of the development hereby permitted, full details of a landscaping scheme shall be submitted in writing to the Local Planning Authority for approval. Those approved details shall be implemented prior to first occupation of the development and retained thereafter for so long as it remains in existence.
- 10) Prior to the first occupation of the development hereby permitted, details of an Electric Charging Point shall be submitted in writing to the Local Planning Authority for approval. The development shall only be completed and operated in accordance with that approved scheme, which shall include details of the charging point and where it will be located and how it will be managed and maintained.
- 11) Before any above ground works commence, details of the surfacing and drainage of the access road and any parking service area(s), including the design of the sub-base and permeability of the subsoil shall be submitted in writing to the Local Planning Authority for approval. The details thereby approved shall be installed prior to the occupation of any building on the site.
- 12) The car parking for the proposed development as set out in plan number NA-23076-PL-102 shall be laid out and ready for use prior to the first occupation of the development hereby permitted and shall be retained for so long as the development hereby permitted remains in existence.
- 13) Prior to the occupation of the development hereby permitted details of the external lighting to be installed on the site, shall be submitted in writing to the Local Planning Authority for approval. The scheme shall be implemented prior to first occupation and thereafter be retained as approved for so long as the development remains in existence. The artificial lighting design must mitigate obtrusive light by being not more than 3000K in temperature and include downward eyeing type wall fixtures or bollards, and means to prevent vehicle headlights shining into dwelling windows or onto gardens.
- 14) Prior to the first occupation of the development hereby permitted, details of the secure covered cycle storage areas shall be submitted in writing to the Local Planning Authority for approval. The scheme shall be implemented prior to first occupation and thereafter be retained as approved for so long as the development remains in existence.
- 15) The buildings hereby permitted shall be used only as single family dwelling houses as specified within Class C3 specified in the schedule to the Town and Country Planning (Use Classes) Order 1987 (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose.
- 16) Prior to the occupation of the development hereby permitted a management plan, including management responsibilities and maintenance schedules, for all external and landscaped areas of the development shall be submitted in writing to the Local Planning Authority for approval. The management plan shall be carried out as approved.

[End of Schedule]