



Appeal Decision

Site visit made on 5 November 2024 by E Street BSc (Hons)

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2024

Appeal Ref: APP/B0230/D/24/3351356

69 London Road, Luton LU1 3UG

- 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 I Khan against the decision of Luton Borough Council.
 - The application Ref is 24/00649/FULHH.
 - The development proposed is described as "excavation of front garden to provide 3 parking spaces and installation of new vehicular crossover".
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Decision

1. This appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issues are a) whether the proposed development would preserve or enhance the character or appearance of the Luton South Conservation Area and b) its effect on highway safety.

Reasons for the Recommendation

The Luton South Conservation Area (LSCA)

4. The appeal proposal concerns the frontage of a substantial semi-detached three storey property fronting the main arterial route through the LSCA and into the town centre. The size and siting of the dwellings are an imposing presence in the street scene as is their defined set back from the road behind, in the main, landscaped front gardens. The period design and consistency of the buildings, along with their soft frontages and street trees, contribute positively to a street scene of high aesthetic quality and, by association, the significance of the LSCA.
5. The excavation of the front garden for the car parking that would be served by the proposed crossover would remove the existing greenery in its entirety. This would detract from the pleasant originality of the building and how it presents, along with its front garden, to the street. It would show a harsh, overtly modern, and hard appearance to the street scene. The original historic character of the appeal site as a whole would be unacceptably eroded, adversely affecting the significance of the LSCA.

6. There are other instances of similar development along the same side of the road as the appeal site, including the neighbouring 71 London Road. I am however unaware of whether they required, sought, or gained express planning permission. Nevertheless, the presence of other examples does not sufficiently disregard the significance of the remaining original features, but moreover emphasises the importance of retaining them.
7. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states special attention shall be paid to the desirability of preserving or enhancing. Nationally speaking, The National Planning Policy Framework 2023 (the Framework) paragraph 205 places emphasis on great weight being given to an asset's conservation. Given the above assessment, the proposal would neither preserve or enhance the character or appearance of the LSCA. Due to the scale of the development in context, the harm would be less than substantial. As directed by paragraph 208 of the Framework, the harm should be weighed against the public benefits of the proposal.
8. The Council have implied that the benefits of the proposal are only private, and the appellant has not provided any additional evidence to convince me otherwise that there are other public benefits of the scheme. Resultantly, only very limited weight would be given to any potential public benefits, and as a result it would not outweigh the great weight given to the harm to the LSCA.
9. Therefore, there would be conflict with Policies LLP1, LLP25 and LLP31 of the Luton Local Plan 2017 (LP), and Section 12 of the Framework which together seek to ensure that development proposals are of a high-quality design and conserve the historic environment, amongst other things.

Highway Safety

10. The proposed development of the dropped kerb is for the facilitation of three off-street parking spaces to the front of the property. There is no requirement or statutory duty to demonstrate the need for the dropped kerb however, the impact of the off-street parking and crossing the pathway needs to be assessed. On the same side of the road as the appeal site there is on-road parking restrictions for certain times and days. The opposite side has double yellow lines and a largely unincumbered pedestrian footway with limited driveways.
11. As a number of neighbouring properties have dropped their kerbs and have access to the parking provision at the front, there would be a mutual understanding between pedestrians and road users of the slow-moving crossing of the pathway. Notwithstanding this, there is a pathway on the opposite side of the road on which pedestrians could walk safely with no interruptions. In addition, there are multiple safe crossing points along London Road to facilitate the change in pathway for pedestrians.
12. The development would not actively encourage the use of sustainable transport modes by virtue of the addition of private vehicle spaces. That said, there is no evidence to suggest that the property is not already served by vehicles parked nearby or elsewhere. In addition, the number of parking spaces provided would accord with and not exceed the requirements of the relevant policy. I do not therefore find any harm in this regard.

13. With these matters in mind, the proposal would not result in harm to the highway that would be detrimental to the safety of users through unacceptably inhibiting the free flow of traffic or obstructing/causing a danger to pedestrians. Therefore, the proposal would comply, in regard to this main issue, with Policies LLP1 and LLP31 of the LP and Section 12 of the Framework which together seek to ensure that highway safety is secured for the users of new and existing development.

Other Matters

14. I am unaware of a condition requiring the retention of the garden of the appeal site in a specific condition. I have also seen no compelling evidence that the existing gardens are necessarily part of the planned development of the area. That said, my assessment as to the effect of the proposals on the significance of the LSCA, is largely unrelated to and would stand regardless of these two matters. I am not therefore inclined to change what I have found.

Conclusion and Recommendation

15. The appeal scheme would not comply with the development plan, specifically in regard to the first main issue. I have found in the appellant's favour on the second, but this would be a lack of harm and thus neutral in any balance. I have been given no compelling reason, taking into account other material considerations advanced, to deviate from the development plan. I therefore recommend that the appeal should be dismissed.

E Street

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

John Morrison

INSPECTOR