
Appeal Decision

Site visit made on 6 January 2025

by **E Catcheside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2025

Appeal Ref: APP/B0230/W/24/3350635

27 & 29 Hillborough Road, Luton LU1 5EY

- 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 G Krova against the decision of the Council of the Borough of Luton.
 - The application Ref is 24/00085/FUL.
 - The development proposed is erection of two bedroom dwellinghouse.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is taken from the decision notice because it more accurately describes the site than the address given on the application form.
3. My attention has been drawn to some inaccuracies on the plans in relation to the existing development at the site. In particular, the rear dormer on 29 Hillborough Road is not shown on the plans, and there are some discrepancies in the external materials and architectural features shown. However, in the absence of evidence to the contrary, I am satisfied that the plans of the proposed dwelling are accurate, and I have proceeded to determine the appeal on this basis.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The parties have been invited to comment on the revised Framework, and I have taken the comments received into account.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposal on the living conditions of the occupants of nearby properties, with particular regard to privacy.

Reasons

Character and appearance

6. Hillborough Road is predominantly a residential street comprising a mix of semi-detached, detached, and short terraces with a variety of architectural styles and materials. The appeal site reflects this variety in that it includes the detached dwelling at 27 Hillborough Road, and the semi-detached dwelling with double height bay window at 29 Hillborough Road. The separation space between

existing building blocks, including on the appeal site, allow for views from the street towards Farley Hill and the land beyond. This contributes a degree of openness in this otherwise built-up frontage. Existing street trees further help to soften the appearance of the built form in this characteristically urban area.

7. The introduction of a new dwelling to the space between Nos 27 and 29 would inevitably reduce the openness of the appeal site, partially restricting the views that can be gained towards the properties on Farley Hill and the land beyond. However, the existing gap is uncharacteristically wide; and some side space would be retained between the proposed dwelling and No 27. Consequently, longer views to the rear would be retained in a manner that is consistent with other gaps between dwellings on this part of Hillborough Road.
8. Given that there are many other short terraces on the street, including those I observed close by at Nos 13-21 Hillborough Road, the addition of a dwelling to form a short terrace with the adjacent semi-detached block would not be uncharacteristic in the street scene. Whilst not identical in its dimensions, the new dwelling would be of a similar width and height to each house in the semi-detached pair, and its rear garden would be of a comparable shape and depth. The shared access to the rear would also reflect the access arrangements of other terraced rows that I observed in the street.
9. However, whilst the external materials could be conditioned, the proposed dwelling would fail to reflect the architectural features that are common to Nos 29 and 31 including the double height bay features, large and wide windows, and low front boundary wall. Moreover, whilst there is some variety in setbacks in the wider street, the proposed dwelling would lack a consistent building line with the existing semi-detached block. Whilst I acknowledge some of these differences are necessary to deliver the off-street parking proposed, it nonetheless means that the dwelling would stand out as an incongruent addition that would fail to integrate harmoniously with the dwellings to which it would be attached.
10. It is clearly the appellant's intention that the existing street tree adjacent to the site frontage would be retained and protected. However, given the size of the tree and its proximity to the site, it is entirely feasible that the foundations of the new dwelling, and other construction activity, would necessitate intrusion within the root protection area of the tree. Therefore, in the absence of any substantive, authoritative evidence to the contrary, I cannot be certain that there are tree protection measures that would be sufficient to protect the tree. For this reason, a condition requiring tree protection measures to be submitted could fail the tests for conditions set out in the Framework. Because the tree makes an important contribution to the character and quality of the area, its loss would cause harm to the overall street scene. It would also be contrary to the Framework, which expects existing trees to be retained wherever possible.
11. On my site visit I observed that refuse bins are commonly stored to the front of many existing dwellings on the street. Given that the proposal would introduce only a small number of additional bins, and the details of bin storage could be conditioned, no harm would arise to local character through refuse storage.
12. Overall, I conclude that the proposal would cause harm to the character and appearance of the area. It follows that there would be conflict with Policies LLP1 and LLP25 of the Local Luton Plan 2011-2031 (November 2017) (LP), which

expect development to be of a high-quality design that preserves or improves the character of the area and responds positively to the street scene. However, I have not found the proposal would lead to over-intensification of the site. Therefore, there would be no conflict with Policy LLP15 of the LP.

Living conditions

13. On my site visit, I observed there were two existing windows in the side elevation of No 29. The submitted plans show the first-floor hallway window would be removed to facilitate the development and the ground floor window would be replaced by a doorway. The Council has not elaborated on the nature of any harm that would be caused to the occupants of No 29 through the loss of the first-floor window. Given that each of the bedrooms would have a principal window on either the front or the rear elevation of the property, no harm would be caused through the removal of the opening. Moreover, because the new doorway would serve a hallway, and glazing could be obscured, no loss of privacy would result.
14. Due to the sloping nature of the site, it is likely that future occupants of the new dwelling would have some views over the garden area of No 29 from the shared access. However, the staircase would be set back from the rear elevation of No 29, therefore any views would be at an oblique angle and would be partially restricted by the existing side wall. Furthermore, boundary treatments could be conditioned to secure the privacy of the occupants of No 29 from undue overlooking from the proposed new garden area.
15. The proposed Juliette balcony would be erected at first-floor level thus allowing for elevated views towards 40 and 40a Farley Hill, which are sited on lower ground. However, there would be sufficient intervening distance between the site and the properties to the rear, to prevent a harmful loss of privacy to the occupants of those properties. Furthermore, some mutual overlooking is common in this area, including from the upper floor rear windows of the existing properties on Hillborough Road, and this would not be exacerbated by the appeal proposal.
16. I conclude that the proposal would safeguard the living conditions of the occupants of nearby properties, with particular regard to privacy. Therefore, in respect of this main issue, there would be no conflict with Policies LLP1 and LLP25 of the LP which, taken together, expect developments to be high quality and to minimise overlooking. The decision notice references Policy LLP15 of the LP in its second reason for refusal. However, the policy is silent on matters of living conditions and privacy and therefore it has not been determinative to my decision on this main issue.

Planning Balance

17. Whilst I have found no harm in respect of the living conditions of neighbours or the standard of accommodation, the proposal would cause harm to the character and appearance of the area. This brings the proposal into conflict with the development plan when read as a whole. Development that conflicts with the development plan should normally be refused unless material considerations indicate otherwise.
18. The appellant has invited me to apply the presumption in favour of sustainable development set out in paragraph 11 of the Framework. However, because I have found the proposal to conflict with the development plan, paragraph 11c) of the

Framework does not apply. I have also not been provided with evidence that definitively shows paragraph 11d) should be engaged.

19. However, if paragraph 11d) of the Framework were to be engaged due to the housing land supply position, or for any other reason, the appeal would fall to be considered under the test set out in paragraph 11d)ii.
20. The harm I have identified to local character would conflict with the Framework insofar as it expects development to provide well-designed places that are sympathetic to local character.
21. There would undoubtedly be some benefits arising from the scheme, including the provision of an additional dwelling that would contribute to local housing needs. As a small site, the proposal could be built-out relatively quickly. The proposal would also improve the efficiency of the site by increasing its residential output, in a well-established and accessible residential area. However, even when considered cumulatively with other small and medium sites, the contribution that would be made by this proposal would be modest given its small scale. Consequently, the benefits of the scheme carry moderate weight.
22. Taking all of the above into account, and even if there were a significant shortfall in the housing land supply position, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole and having particular regard to the policies referenced in footnote 9. Therefore, the presumption in favour of sustainable development would not apply.

Conclusion

23. 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 given above the appeal should be dismissed.

E Catcheside

INSPECTOR