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## Appeal Decision

Site visit made on 21 January 2025 by E Street BSc (Hons) MSc

### Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31<sup>st</sup> March 2025

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#### Appeal Ref: APP/B0230/W/24/3349991

#### 18 Hallwicks Road, Luton LU2 9BG

- 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 & Mrs Kunal Mehra against the decision of Luton Borough Council.
  - The application Ref is 24/00533/FUL.
  - The development proposed is described as “erection of a two storey side extensions to form a two-bed house with associated parking and landscaping adjacent to 18 Hallswick Road Luton”.
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#### Decision

1. The appeal is dismissed.

#### Procedural & Preliminary Matters and Main Issue

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. In addition, a revised National Planning Policy Framework (Framework) was published prior to the determination of this appeal. The substantive parts of the new version do not however differ from the previous insofar as they relate to the main issue. The cases of the main parties will not therefore be prejudiced by my reference to the new version.
3. The description of development incorrectly quotes the address as Hallswick Road. As it is shown in the address above, the appeal site is 18 Hallwicks Road. I have referred to this in my recommendation on the proposal, the main issue for which is its effect on the character and appearance of the area.

#### Reasons for the Recommendation

4. The appeal site is an open corner plot in which the proposal is to attach to the existing Number 18 Hallwicks Road. The existing vacant land is partially within fencing siding the public footpath which comprises a small outbuilding, a large garden space and parking provision on hardstanding. Any instances of open parcels of land are small and part of residential units. The prevailing building type is both terraced and semi-detached dwellings with relatively uniform features and siting. These, in combination, lend a pleasant consistency to the locality which contributes positively to the character and appearance of the area.
5. The proposal would, by virtue of its siting and land take, encroach into the existing open land sitting in a similar position to the existing single storey outbuilding. The open parcel of land will be eroded as part of the proposal; however, the current condition of the land is clearly residential in nature and therefore makes a limited positive contribution to the openness of street corners more generally and,

resultantly, the character and appearance of the area. Additionally, and by virtue of the scale of the dwelling, a large portion of land will retain the same appearance due to it becoming the residential garden of the new dwelling.

6. The dwelling would sit in line with the remaining terraced houses in this set. The side elevation of the new dwelling would sit forward of the neighbouring Number 16. Notwithstanding this, there would be a sufficient separation gap between the dwelling and the highway which would retain some of the openness described. Additionally, the overall appearance of the site would remain relatively unchanged with the side elevation of the new dwelling replicating the existing appearance. The existing landscaping along with the proposed scheme would ensure that there is a sufficient and clear separation distance between the side elevation of the property and the back edge of the highway.
7. The proposal is to mirror the neighbouring terrace by virtue of height, form and siting. It would be viewed as marginally narrower than the rest of the terrace, however, the ground floor features such as windows and doors would replicate the adjacent dwellings in their placement and scale. There is a strong uniformity to the character and appearance of the area by virtue of the setback of dwellings, building type and materials used. However, there have been subtle changes which include altered opening types and porches. These would allow for the new dwelling to be readily absorbed and sit comfortably with the prevailing character.

### **Other Matters**

8. The Council's report makes reference to the nationally described space standards and how the scheme would be suitable for three people but not four. It is unclear how many would reside at the house. Notwithstanding this, the standards are not adopted by the development plan and no issues have been raised regarding the living conditions of occupiers. Additionally, this doesn't translate to a reason for refusal, to which I have taken this as a non-contentious matter. The Council also raised concerns regarding the removal of any hedging and trees prior to the submission of the planning application. However, this is outside of the scope of what can be considered as part of this appeal.

### **Conclusion**

9. With these matters in mind, the proposal would not cause harm to the character and appearance of the area. It would therefore comply with Policies LLP1, LLP15 and LLP25 of the Luton Local Plan 2017 and Section 12 of the Framework which together seek to ensure that development proposals are of a high-quality design and standard, amongst other things.

*E Street*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

10. The original planning application was submitted to and made valid by the Council on 29 May 2024. The application form states that the site would be exempt from Biodiversity Net Gain (BNG) requirements as it fell under the temporary exemption for non-major developments or the 'small sites exemption'. However, as it states, this was a temporary exemption, and small sites fell under the statutory duty for

BNG from April 2024. The main parties were consulted, and both were satisfied that an appropriately worded condition could be used. Be this as it may, there is currently no evidence pertaining to what the current baseline situation of the site is, to be then able to understand what a gain would equate to in terms of type, amount or location. I remain to be convinced therefore that a condition would be an appropriate approach. Given what a condition may or may not be able to require of the appellant in any case, a planning obligation might be the more robust approach.

11. In any event, with this in mind and notwithstanding my representative's findings on the planning merits of the appeal scheme with which I agree, the appeal proposal would not meet the statutory duty in regard to BNG in the absence of either a suitable condition or other mechanism to secure it following an establishment of the facts that might feed therein. I am therefore unable to allow the appeal, and it therefore has to be dismissed.

*John Morrison*

INSPECTOR