
Appeal Decision

Site visit made on 27 October 2025

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/B0230/W/25/3370648

54 Rotheram Avenue, Luton LU1 5PN

- 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 Tariq Mughal against the decision of Luton Borough Council.
 - The application Ref is 24/01437/FUL.
 - The development proposed is erection of a two storey side extension to form a three bed house with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. Taking the Council's five reasons for refusal as a whole, the main issues are:
 - the effect of the proposal on the character and appearance of the appeal site and the surrounding area;
 - the effect on parking and highway safety; and
 - whether sufficient information has been provided with regard to custom/self-build and biodiversity net gain.

Reasons

Character and appearance

3. The appeal property is located in a mid-twentieth century housing estate, which is characterised by a planned layout of properties in terraces and pairs of semi-detached dwellings, with public greenspaces, verges and planted front gardens. This provides for a relatively spacious, open and verdant character and appearance to the estate.
 4. No 54 is an end-of-terrace dwelling next to the junction of Rotheram Avenue with South Drift Way. The terrace is unaltered and displays a strong degree of uniformity, with Nos 44 and 54 to either end set back from the front building line of the central four dwellings. This uniformity is also apparent from the immediately surrounding spaces with good-sized front and rear gardens and a substantive degree of separation between the end-of-terrace dwellings and the side boundaries.
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5. The proposal involves an additional dwelling joined to No 54 of similar size, layout, design and materials to the existing dwelling. This would infill the majority of the open space to the side of No 54, which is currently occupied by a modest single storey side element, which feature is also found at the other end of the terrace, joined to No 44. While the new dwelling would not be built up to the boundary it would nonetheless materially alter the original built form and layout of the terrace by unbalancing its uniform appearance and impinging on the characteristic openness to the side.
6. The open aspect to the side of properties close to junctions is a feature of the area and in this regard the space next to No 54 mirrors the space to the side of No 58 South Drift Way on the opposite side of the road. The proposal would, therefore, introduce an incongruous and visually prominent feature that would harmfully effect the character and pattern of development within the street scene, as well as the terrace of which it is part. The proposal would also result in the subdivision of No 54's rear garden which, together with the use of part of this space for parking, will result in an uncharacteristically limited garden space compared to the established garden size of neighbouring dwellings. Landscaping would not overcome these harmful effects.
7. The Council draws attention to two unsuccessful appeals for similar proposals in the same estate¹. In both cases the Inspectors found the same characteristics of the area as noted above and concluded that the additional dwelling would result in material harm to the character and appearance of the area. In this regard, the above findings are consistent with these earlier appeal decisions. The appellant refers to a successful appeal at Waller Avenue, but it is unclear whether this location is part of the same estate and, therefore, I give it less weight than the other two appeal decisions.
8. While there are some limited examples of infill dwellings within the estate, these were permitted some time ago according to the Council and I do not consider them to be positive precedents given the above findings and the two recent appeal decisions referred to.
9. Accordingly, for the reasons given, I conclude that the proposal would have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. Consequently, it is contrary to the following policies from the Luton Local Plan 2011-2031 (2017): LLP1, which includes the requirement that all new development should contribute to enhancing a sense of place and preserve or improve the character of the area; LLP15 concerning housing provision, which states that new housing should not result in over-intensification of the site; and LLP25, which requires high quality design, including that proposals should enhance the distinctiveness and character of the area.

Parking and highway safety

10. The proposal includes a vehicle crossover to facilitate two parking spaces to the front of No 54, which were already in use at the time of the inspection. The Council's concern is that this will result in a loss of on-street parking in the bay to

¹ APP/B0230/W/18/3199065, dated 5 November 2018 and APP/B0230/W/18/3206610, dated 1 May 2019.

the front of No 54 and neighbouring dwellings, and could result in obstruction and conflict between vehicles and pedestrians.

11. I note that the Council has granted a licence for a new dropped kerb in front of No 54. While that decision involves a separate consent regime to the planning permission applied for, it does nonetheless have some bearing on consideration of this issue. There are no apparent restrictions to on-street parking in the vicinity of the appeal property and there are also other examples of vehicle crossovers. Moreover, it is not unusual for such crossovers to exist alongside on-street parking.
12. Taking these findings as a whole, there is no basis to conclude that the presence of the crossover would result in an undue loss of parking, obstruction or conflict. Therefore, there is no conflict with Policies LLP25 and LLP32 of the Luton Local Plan, concerning design and parking.
13. I have also had regard under this main issue to the Council's fourth reason for refusal, which states that the proposal is contrary to the Council's sustainable transport strategy due to the vehicle crossover and loss of greenspace. This matter is not fully substantiated in the officer report. However, a vehicle crossover and space for parking to serve the proposed dwelling, which would meet the requisite parking standards, already exist along the boundary on South Drift Way.
14. The proposed crossover to serve No 54 would not result in the loss of a grass verge as none exists to the front of the property, while the front garden is hardstanding. Furthermore, there is no basis to find on the available evidence that the proposed dwelling in this location would be unsustainable in transport terms. Consequently, there is no material harm or conflict with the development plan with regard to this issue.

Biodiversity net gain and custom/self-build

15. The application form states that the proposed dwelling meets the statutory definition for custom or self-build housing and, consequently, it is contended that the proposal is exempt from the statutory requirement with regard to biodiversity net gain (BNG). The Council considers that there is no evidence to support the intention for a custom/self-build dwelling and, therefore, no basis to conclude that the proposal is exempt with regard to BNG.
16. Given the conclusion on the first main issue, this issue is not determinative for the appeal. However, in terms of the matters raised it would normally be necessary for planning permission to incorporate some means of ensuring that custom/self-build proposals are constructed in this manner. A planning obligation is likely to be the most appropriate method of ensuring that the development is custom/self-build housing rather than market housing.
17. I note the appellant's willingness to provide an undertaking. However, in the current absence of such an obligation or other means to ensure that the proposal would be secured as a custom/self-build dwelling, I must conclude that insufficient information has been provided with regard to this matter and that it is not possible to confirm that the proposal would be exempt from the statutory requirement with regard to BNG. The appellant refers to a condition concerning BNG, but this does

not address or overcome the need to ensure that the proposed custom/self-build dwelling is constructed and occupied as intended.

Other Matters

18. I have had regard to another matter, not included in the Council's reasons for refusal, but referred to in the officer report, concerning the adequacy of the garden size for the proposed dwelling. Appendix 6 of the Local Plan indicates that for a new dwellinghouse provision of an enclosed rear garden of 90m² should be made.
19. The submitted plans show an area of 96m² for the new dwelling, but as the Council contends part of this is a strip of land to the side of the property that would be of limited practical amenity value. Consequently, the usable area of rear garden would be materially smaller than the requisite size. Therefore, as well as harmfully affecting the character and appearance of the area the garden size would fail to provide adequate amenity space for its occupants, in accordance with the development plan's standards.
20. I have had regard to the benefits of the proposal referred to by the appellant, including to the local economy from the construction of the dwelling and that the dwelling would meet a local need. These are not, however, sufficient to outweigh the harmful effects and conflict with the development plan that has been found.
21. The appellant contends in support of the appeal that the proposal should be considered in the context of the presumption in favour of sustainable development included in the National Planning Policy Framework and development plan. While I have had regard to this contention, the presumption applies where development accords with the development plan or where there are no relevant policies or relevant policies are out-of-date, none of which applies in this case for the reasons given above. Accordingly, I give this matter limited weight and it does not alter my overall conclusion.

Conclusion

22. The proposal is contrary to development plan policies as it would cause unacceptable harm and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR