

Appeal Decision

Site visit made on 19 September 2016

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 September 2016

Appeal Ref: APP/B0230/D/16/3154109
30 Bembridge Gardens, Luton LU3 3SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul McDonagh against the decision of Luton Council.
 - The application Ref 16/00527/FUL, dated 22 March 2016, was refused by notice dated 17 May 2016.
 - The development proposed is part two and single storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a part two and single storey side extension at 30 Bembridge Gardens, Luton LU3 3SJ in accordance with the terms of the application, Ref 16/00527/FUL, dated 22 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01 – Existing floor plans, elevations, site and location plans; and 02 – Scheme Proposals Drawing.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of 44 Bembridge Gardens (No 44), with particular regard to visual impact.

Reasons

3. The appeal property (No 30) is a semi-detached house within a cul-de-sac and its side elevation faces towards the rears of Nos 42 and 44. The development would involve the construction of what would essentially be a two storey, full depth, side extension, with a forward projecting single storey element. The flank wall of the extension would be in set by around one metre from the boundary that No 30 shares with Nos 42 to 46.
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4. The distance between No 30's flank wall and the rear elevation of No 44 is currently around 15.5 metres¹ and given the extension's width of 3.0 metres that distance would be reduced to 12.5 metres. The Council contends that a minimum separation distance of 13.7 metres should be provided, in line with the guidance set out in the 'Luton Local Plan 2001 – 2011' of 2006 (the Local Plan). The appellant disputes the relevance of the 13.7 metre requirement because it contends that this only concerns the relationship between new and existing dwellings, as per the guidance in Appendix 2² of the Local Plan. I consider that the relevant guidance for extensions is stated in Appendix 3³ ("Alterations to Dwellings") of the Local Plan, which requires, amongst other things, an assessment to be made as to whether an extension would be visually intrusive, given its height and position, with no reference being made to specific separation distances.
5. I find that at a separation distance of around 12.5 metres would be sufficient to avoid this extension being visually intrusive when viewed from the interior of No 44. I also consider that this addition would not have a domineering presence when seen from No 44's garden and in this respect it is of note that there are mature shrubs at the foot of No 44's garden, which would provide some screening for the extension.
6. I therefore find that this extension would not be visually intrusive for the occupiers of No 44 and that their living conditions would not be harmed. Accordingly as this development would not be visually intrusive there would be no conflict with saved Policies LP1 and H4 of the Local Plan and the fourth core planning principle (securing a good standard of amenity for all existing and future occupants of buildings) of the National Planning Policy Framework.

Conditions

7. Apart from the standard time limit condition, I find it necessary to impose conditions requiring the development to be built to accord with the submitted plans for certainty and with external materials to match those of the existing property, in the interests of the character and appearance of the area.
8. To safeguard privacy a condition precluding the insertion of first floor side windows has been suggested. However, I find such a condition to be unnecessary because the previously mentioned plans conditions will require compliance with the application plans, while any windows that might subsequently be installed with the benefit of the permitted development rights available under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 would have to be obscure glazed and be non-opening, unless any part capable of being opened is a minimum of 1.7 metres above floor level.

Conclusion

9. For the reasons given above the appeal is allowed.

Grahame Gould

INSPECTOR

¹ Paragraph 3.7 of the appellant's statement of case

² Entitled "Standards and Guidance for New Residential Developments"

³ On the basis of being provided with Appendices 2 and 3 and my reading of their contents