

Appeal Decision

Site visit made on 16 January 2017

by Christa Masters MA (hons) MRTPI

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

Decision date: 23rd January 2017

Appeal Ref: APP/B0230/D/16/3164538
32 St Ethelbert Avenue, Luton LU3 1QH

- 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 G Abbas against the decision of Luton Council.
 - The application Ref 16/01359/FUL, dated 24 July 2016, was refused by notice dated 19 September 2016.
 - The development proposed is erection of two storey, side and rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. This appeal has two main issues. Firstly, the effect of the proposal on the living conditions of the future occupiers of the neighbouring dwelling. Secondly, the effect of the proposal on the character and appearance of the area.

Reasons

Living Conditions

3. The appeal site comprises a two storey end of terrace dwelling. The Council have advised that there is an extant planning permission for a two storey dwelling within the rear garden. The location of this dwelling is set out on drawing 1137-27. The dwelling reflects the established building line along St Catherine's Avenue.
 4. My attention has been drawn to policy H4 of the Luton Local Plan (LP) 2006. In relation to residential extensions, part B of this policy advises that planning permission will be granted to extend a dwelling provided that the proposed extension does not significantly reduce the amenity of nearby occupiers in respect of visual intrusion, loss of light or overlooking.
 5. The officers report advises that the rear elevation of the proposed extension would be positioned between 8.4 and 9.6m from the flank elevation of the new dwelling. The report goes on to state that this would be significantly below the minimum separation distance identified at appendix 2 of the Local Plan. I have not been provided with appendix 2 to the Local Plan and there is no reference to appendix 2 within the policy. In my view, the proposed two storey extension would be a significant structure which would extend close to the
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flank elevation of the new dwelling. As a result of the scale and proximity of the proposed extension relative to this new two storey dwelling, I share the concerns expressed by the Council that the proposed extension would have an adverse effect of the living conditions of the future occupiers of the proposed dwelling. In particular, the proposal would be a visually dominant feature from the rear garden of the new dwelling and there would be the potential for overlooking to the rear garden to occur. There would therefore be a clear conflict with policy H4 in this regard.

6. In addition, the occupiers of No 30 have raised concerns that the proposal could have an adverse effect on their living conditions. However, the proposed extension would be set back some 3m from the boundary with this property. Taking into account this separation distance as well as the existing single storey extensions in place, I am not convinced that the proposal would result in material harm in this regard.
7. I therefore conclude on the first main issue, the proposal would result in material harm to the living conditions of the future occupiers of the two storey dwelling as permitted and detailed on drawing 1137-27. It would as a result be in direct conflict with policy H4 of the LP. It would also conflict with policy LP1 which advises, amongst other things, that planning permission will be granted for development unless it is considered that the proposal would fail to maximise the opportunity to improve the quality of life of residents and visitors. The proposal would also be in conflict the Framework and in particular, paragraph 17 which advises, amongst other things, that proposals should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Character and Appearance

8. The host property is located on the corner of St Ethelbert Avenue and St Catherines Avenue and as such is in a relatively prominent location within the street scene. As a result of this corner location, there are clear views of the rear and flank elevation of the host property from a number of public vantage points.
9. The size and scale of the proposed extension would mean it would be positioned close to the side boundary of the property. As result of the limited plot width, and the size and scale of the extension proposed, the proposal would in my view present a bulky and dominant feature to both the host property and the street scene. In terms of its design, it would be fail to respect the existing simple design of the host property, and the size and scale of the extension would mean it would be disproportionate in both scale and form to the host property.
10. I therefore conclude on the second main issue, the proposal would cause material harm to the character and appearance of the area. It would therefore be in conflict with policies LP1, ENV9 and H4 of the LP. Policy LP1 is a sustainable development strategy policy which advises, amongst other things, that the Council will grant planning permission for development unless it considers that it would (B) fail to maximise the opportunity to improve the physical environment of the town.
11. Policy ENV9 advises, amongst other things, that proposals for build development will be granted planning permission provided that they enhance

the character and appearance of the area, as well as respecting the scale and proportions of existing buildings.

Other Matters

12. The appellant has stated that the proposal would meet current standards for insulation and that the installations of PV on the rear roof could generate sufficient electricity for domestic needs. Be that as it may, these are not sufficient reasons to permit a proposal which would result in the very clear policy conflicts I have outlined above. The appellant also states that the proposal would deliver substantial thermal, acoustic and access improvements although I have no evidence to support this statement.
13. A number of concerns have been raised by a third party including the effect of the proposal on the foundations of the neighbouring property, as well as concerns regarding noise and disturbance. However, such concerns are not supported with detailed evidence to substantiate their case in respect of these matters. On this basis, I am able to afford such concerns only very limited weight in the determination of this case.
14. I have no evidence to suggest that the proposed works would cause harm to the existing foundations, nor have I any evidence to suggest the proposal would materially alter the existing levels of noise and activity taking place. The weight I can attach to these concerns is therefore limited.

Conclusion

15. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christa Masters

Inspector