

Appeal Decision

Site visit made on 21 February 2017

by H Lock BA (Hons) DipTP MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/B0230/D/16/3165374

72 Oakley Road, LUTON, Bedfordshire, LU4 9PU

- 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 & Mrs Zahbier Ahmad against the decision of Luton Borough Council.
 - The application Ref. 16/01402/FUL was refused by notice dated 27 October 2016.
 - The development proposed is erection of a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey rear extension at 72 Oakley Road, LUTON, Bedfordshire, LU4 9PU in accordance with the terms of the application, Ref. 16/01402/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 scale location plan; 1:500 scale block plan; and 1:50 scale 'Plans & Elevations'.
 - 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.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be constructed on the north western flank elevation of the extension hereby permitted.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of occupants of 74 Oakley Road, with particular reference to overshadowing, access to light, and outlook.

Reasons

3. The appeal property is a semi-detached dwelling with a flat roofed rear projection, the roof of which extends over a raised patio area to join a parapet wall on the boundary with 74 Oakley Road (No.74). The Council's officer report confirms that planning permission was granted for a single storey rear
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extension at the appeal property under ref. 14/00683/FUL in August 2014. The report notes that the approved extension had a depth of 3.5 metres, with a hipped roof sloping away from adjoining neighbours.

4. The existing parapet wall and tall boundary fencing beyond provide a significant screen between the appeal property and No. 74. The combination of this screening, the orientation, and an existing extension and outbuilding at No.74, means that, to a degree, access to light from the rear-facing doors of No.74 is already likely to be compromised. The officer report notes that the doors serve a dining room, but that they are not the only source of light to that room. The siting of the extension at No.74 and its outbuilding would already be features in the outlook from the dining room, as would the tall boundary treatment.
5. Planning permission has been granted for a single storey rear extension that would be 500mm shallower than the extension now proposed. The extant permission offers a 'fallback' position of some weight, as an increased sense of enclosure and change to outlook from No.74 has already been regarded as acceptable in the grant of that permission. In this context, I do not find that the increased depth would materially diminish the light levels and outlook for occupants of No.74, and the proposal would not significantly increase the potential for overshadowing or visual intrusion to a degree that living conditions would be harmed.
6. I therefore conclude that the proposal would not adversely affect the living conditions of occupants of 74 Oakley Road, and would not conflict with the strategic aims of Policy LP1 of the Luton Local Plan 2001 – 2011 (LP), or the specific objectives of LP Policy H4 [B], in that it would not significantly reduce the amenity of nearby occupiers in matters including visual intrusion and loss of light.

Conditions

7. In addition to the standard time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is appropriate to ensure the use of matching materials, in order to safeguard the character and appearance of the development. Having regard to the tests set out in the National Planning Policy Framework (the Framework), and subject to amendment to reflect the Planning Inspectorate's published model conditions, I have attached a condition to restrict the insertion of windows in the north western flank elevation only. This is in the interests of preserving the privacy of residents of the attached property, but is unnecessary in respect of the other side wall.

Conclusion

8. The Framework establishes a presumption in favour of sustainable development, and part of its environmental strand is to contribute to protecting and enhancing the built environment. A core planning principle of the Framework includes always seeking to secure a good standard of amenity for all existing and future occupants of land and buildings, and for the reasons given above the proposal would comply with this principle and would be sustainable development supported through the Framework. As a consequence, and for the reasons given above, I conclude that the appeal should be allowed.

H Lock INSPECTOR