
Appeal Decision

Site visit made on 10 July 2017

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/B0230/W/17/3172588

109 Shelly Road, Luton, Bedfordshire LU4 0HZ

- 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 Sajid Hussain against the decision of Luton Council.
 - The application Ref 16/01614/FUL, dated 23 August 2016, was refused by notice dated 7 November 2016.
 - The development proposed is a first floor extension above an existing shop to form 2 x 1 bedroom flats (C3 residential use) with some partial demolition and remodelling to facilitate the works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a revised scheme within the appeal documents and has asked that I take this into account when determining the appeal. This revised scheme indicates alterations to the form of the roof, the amenity space and the overall appearance of the proposal. I am mindful that this scheme has not been considered by the Council and has not been the subject of any public consultation. If I were to consider this revision, neighbours of the site and others will have been denied any opportunity to comment on the scheme. As some may consider that this revision has a greater impact, I am of the view that they should legitimately be given the opportunity to consider the revision and to make comments. Taking account of the principles established in the *Wheatcroft* case, the interests of other parties may well be prejudiced if I consider these revision. Therefore, I shall determine the appeal on the basis of the scheme that was refused by the Council, and not the revision submitted with the appeal.

Main Issues

3. The main issues in this appeal are;
 - The effects of the proposal on the character of the area
 - The effects of the proposal on neighbours
 - Whether the provision for amenity space is acceptable
 - The effects on highway safety and parking within nearby streets.

Reasons

The effects of the proposal on the character of the area

4. The appeal site is located adjacent to the junction of Shelly Road and MacAulay Road, within this largely residential area. The existing building on the site is mainly single storey with a small element at first floor. It accommodates a shop with offices in the first floor. Within the street-scene it appears rather out of place as it is mainly single storey with a flat roof and the 2 storey element projects forward of No 57 MacAulay Road. Other than the appeal building, there is a consistent front building line and consistency of design on this section of MacAulay Road.
5. The proposal envisages a first floor above the whole ground floor and would have a flat roof. This addition would be highly visible on this prominent street corner. I consider that it would appear visually awkward and out of place due to its abrupt box-like appearance. Its long elevation facing MacAulay Road would appear particularly oppressive and bulky. Therefore, the proposal conflicts with Policies LP1, H2, H4 and ENV9 of the Luton Local Plan (LLP).

The effects of the proposal on neighbours

6. The proposal would be sited immediately adjacent to the boundary of the house and garden at No 107 Shelly Road. Although the proposal contains a small indented section at the first floor, the proposal would be immediately adjacent to the rear garden area and would appear significantly overbearing from the perspective of these neighbouring residents. I fully appreciate that there is a small first floor element at the appeal site at the moment but the proposal would add significantly to this and make the situation far worse for these neighbours.
7. In relation to light and outlook from within the house at No 107, the proposal would be sited just over 1m from the window in the side elevation which is said to serve the stairs. Although this window would not be protected with the same sensitivity as a main room window, I consider that the proposal would have a drastic effect on the amount of light received here. In addition, the proposed amenity area would be sited adjacent to the boundary of No 107, at first floor level. Even taking account of the proposed privacy screen, I consider that the general activity which would take place here and the perception of overlooking would have an unacceptable impact on neighbours. As a consequence, the proposal is contrary to Policies LP1 and H2.

Amenity Space

8. The Council's Local Plan indicates that a proposal of this kind would require a minimum outdoor amenity area of 10 sqm. The proposal includes provision by means of a first floor area of 7 sqm according to the Council's figures. This would be a communal area shared by the 2 proposed flats. Not only would this be too small to represent a reasonable minimum area for outdoor amenity, the configuration of the space has meant that the appellant has proposed a screen to prevent overlooking of No 107 Shelly Road; the effect of this would be to make the amenity area oppressively enclosed and unsuitable for its designed purpose. Therefore, the proposal is contrary to Policies LP1, ENV9 and H2 of the LLP.

Parking and Highway Safety

9. The Council's maximum requirement for the proposed development would be 2 car parking spaces and none is proposed as part of the scheme. At my site visit I noted that parking is available and unrestricted on the surrounding streets. A number of cars were parked on the street but there were spaces available where additional cars could park close to the site.
10. I appreciate that the pressure for on-street spaces may increase in the evenings when people return home but I am not convinced that the addition of 2 small flats in the area would give rise to additional parking such that highway conditions would become unsafe. Therefore, I find no conflict with Policies T3 and T13 of the LLP.

Conclusions

11. I have taken account of the appellant's reference to the Council granting a prior approval application for the use of part of the building as a flat. That scheme was different to the one before me and the range of issues that the Council can take into account is limited for such a submission. Therefore, this does not alter my view of the appeal scheme.
12. I have taken account of all other matters but find nothing which leads me to a different conclusion. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR