
Appeal Decision

Site visit made on 18 October 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 25th October 2017

Appeal Ref: APP/B0230/D/17/3179681
38 Fitzroy Avenue, Luton LU3 1RS.

- 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 M Ayub against the decision of Luton Council.
 - The application Ref 17/00557/FUL, dated 31 March 2017, was refused by notice dated 31 May 2017.
 - The development proposed is erection of rear dormer window.
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Decision

1. The appeal is allowed and planning permission is granted for erection of rear dormer window at 38 Fitzroy Avenue, Luton LU3 1RS in accordance with the terms of the application, Ref 17/00557/FUL, dated 31 March 2017, subject to the following 4 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 approved plans 01/04; 02/04; 03/04; and 04/04.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building at 38 Fitzroy Avenue.
 - 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 other than those expressly authorised by this permission shall be constructed on the flank wall elevations of the development.

Procedural Matter

2. A rear dormer window has been constructed at 38 Fitzroy Avenue and there are apparent discrepancies between what has been built and the submitted plans. It is not entirely clear to me whether both parties have based their cases on the dormer window as built, or as shown on the submitted plans. In reaching my decision, I have considered the appeal against the submitted plans. This grant of planning permission does not permit the rear dormer window which has been built at 38 Fitzroy Avenue.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of neighbouring occupiers at 35 Rondini Avenue, with regard to outlook.

Reasons

(i) Character and Appearance

4. The appeal property is one of a pair of two-storey semi-detached houses at 38 and 40 Fitzroy Avenue. The 2 houses have already been extended significantly, with two-storey side extensions abutting the neighbouring houses at Nos 36 and 42. Neighbouring No 40 has a large rear dormer window similar in design to the proposed dormer window.
5. The proposed dormer window would be approximately 8.7m wide, 3.4m deep, and 2.3m in height. The proposed dormer window would be set approximately 0.3m from the eaves of the roof. The proposed dormer window would have 3 windows facing 35 Rondini Avenue to the rear.
6. I was able to view the rear elevation of the appeal property from the shared rear garden of Nos 38 and 40, 35 Rondini Avenue, and from Rondini Avenue itself. In addition to the existing dormer window at No 40, I saw a number of large rear dormer windows at properties on both sides of nearby Bishopscote Road from the street scene. These existing dormer windows were either similar in size or larger than the proposed dormer window. Although I recognise that the proposed dormer window would be relatively large within the roofslope, I observed on my site visit that rear dormers of the size proposed at the appeal site are common within the surrounding area, including at No 40.
7. Furthermore, I consider that the proposed distance of the proposed dormer windows from the eaves is sufficient to ensure that the proposed dormer window is visually separated from the floor below and therefore does not appear as an additional storey. Additionally, the proposed dormer window would be set in to a similar extent from the boundaries of the roof as the existing dormer window at No 40. As a result, it would be no more prominent from public viewpoints than the existing dormer at No 40. Accordingly, the proposed rear dormer window would not appear discordant, overly dominant, or detrimental to the character and appearance of the host dwelling and the surrounding area.
8. Concluding on this main issue, I find that subject to a condition requiring the control of external materials for construction, the proposal would not cause harm to the character and appearance of the area. It would, therefore, not be contrary to policies LP1, ENV9 and H4 of the Luton Local Plan 2001-2011 (2006) and the National Planning Policy Framework (the Framework). Policy LP1 is a general policy which addresses the Council's sustainable development strategy and requires development to contribute to the borough's urban renaissance and improve residents' quality of life. Policy H4 requires extensions to be consistent with the host property and neighbouring dwellings, in terms of scale, design and materials. In addition, policy ENV9 requires, amongst other things, development to enhance the character and appearance of the area; and to respect the scale, proportions and design of existing buildings. The proposal

would also be compliant with a core planning principle of the Framework, which seeks to secure high quality design.

(ii) Living Conditions

9. The rear elevation of the appeal property faces the rear of 35 Rondini Avenue. The Council contends that the proposed dormer window would have a detrimental effect on the living conditions of No 35 with regard to outlook, while the neighbour at No 35 has also expressed concerns about privacy.
10. The existing dormer window at adjacent No 40 looks directly over the rear garden of No 35 and at the rear elevation of the property. Given the proximity of the existing dormer window at No 40 to the location of the proposed dormer window at No 38 and their similar alignment, I do not consider that the proposed dormer window at No 38 would have any greater effect on the living conditions of neighbouring occupiers in terms of outlook than the existing dormer window at No 40. Furthermore, works could be carried out under permitted development which would have a similar effect on outlook as the proposed dormer window. These findings in respect of outlook would also relate equally to privacy.
11. Although I note concerns raised by the neighbouring occupier at No 35 with regard to noise and disturbance from the occupiers of the appeal property, this is not in itself associated with the proposed development. This does not therefore alter my overall conclusions in this instance.
12. Concluding on this main issue, I consider that the proposed dormer window would have an acceptable effect on the living conditions of neighbouring occupiers of No 35, with regard to outlook. This would be compliant with policies LP1, ENV9 and H4 of the Luton Local Plan and the Framework. I have addressed these policies above. In addition to addressing matters of character and appearance, policy H4 also states that extensions should not significantly reduce the amenity of nearby occupiers, with regard to visual intrusion. Moreover, a core planning principle of the Framework seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Conclusion

13. For the reasons set out above, and having taken into account all other matters raised, I conclude that the appeal should be allowed.

Conditions

14. I have considered the conditions suggested by the Council against paragraph 206 of the Framework. I have imposed an amended condition on windows in flank walls of the proposed dormer window to maintain the privacy of neighbouring occupiers. I also consider it necessary to specify conditions limiting the planning permission's lifespan, confirming the approved plans and the materials. All of these conditions are required to ensure certainty, with the condition on materials also ensuring that the appearance of the proposed development is satisfactory.

J Gilbert

INSPECTOR