



Appeal Decision

Site visit made on 6 November 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 4th December 2017

Appeal Ref: APP/B0230/W/17/3180847
158 Chester Avenue, Luton, LU4 9SH

- 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 Asif Mahmood against the decision of Luton Council.
 - The application Ref 17/00439/FUL, dated 9 March 2017, was refused by notice dated 4 May 2017.
 - The development proposed is construction of 1 no. two bedroom bungalow with associated parking and landscaping plus provision of separate amenity area for existing flat.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 1 no. two bedroom bungalow with associated parking and landscaping plus provision of separate amenity area for existing flat at 158 Chester Avenue, Luton, LU4 9SH in accordance with the terms of the application, Ref 17/00439/FUL, dated 9 March 2017, subject to the conditions in Annex A.

Main Issue

2. The main issue is the effect of the provision of a bungalow on the character and appearance of the area.

Reasons

3. The site would be positioned between the rear of No 158 Chester Avenue and No 159 Roman Road. Chester Avenue is predominantly terraced dwellings. There is a parade of shops opposite the site and the adjacent buildings on Roman Road are single storey in height. Overall the area contains a mix of dwelling styles, materials and plot sizes.
4. The new dwelling would have a frontage to Roman Road. It would be positioned to one side of the site with a side garden area and off street parking. It would be a bungalow with rendered walls and a tile roof. I appreciate that the scheme would introduce additional built form to the area. However, the site is currently bounded in the main by a high wall. This serves to limit its contribution as an open area within the street.
5. I understand that the Council have raised concern about the massing of the building. In this case the dwelling would be well proportioned and constructed from materials that would be complementary to the locality. In addition the single storey scale would sit comfortably with the existing buildings on Roman Road. Furthermore, the plans show that the new dwelling could be set back

from the pavement edge. Therefore I do not consider that the roof design proposed would be a poor design or unduly prominent within the area.

6. I appreciate that the garden area would be to the side and that the Council is concerned it would be a cramped and inappropriate development of garden land. However, it would be of a reasonable size and a regular and usable shape. Therefore, even though it would not be to the rear, it would offer setting and relief to the building. In this regard it would not appear out of place.
7. I therefore conclude that the proposal would not harm the character and appearance of the area. It would not be in conflict with policies LP1, H2 and ENV9 of the Luton Local Plan which amongst other things require new development proposals to enhance the character and appearance of an area, use appropriate materials and respect the scale and proportion of existing buildings.

Conditions

8. The Council has suggested a number of conditions which it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the relevant tests at paragraph 206 of the Framework and where necessary amended them.
9. Conditions relating to commencement and plan numbers are necessary. Whilst not in the Council's list in the interests of the character and appearance of the area a condition requiring material samples to be submitted is also reasonable and necessary. For the same reason it is necessary to secure the detail of the provision of the hard and soft landscaping. In the interests of highway safety conditions would be necessary that secure the detail of parking layout including any drainage. In the interests of the living conditions of the existing occupiers of nearby dwellings a condition restricting the openings to the side and rear elevations would be necessary in this case.
10. The Council has sought the removal of permitted development rights for the alteration and/or extension of the dwelling and provision of outbuildings. Such conditions should not be imposed unless there is clear justification to do so, and should only be used in exceptional circumstances. In this case the condition would be reasonable to allow control over the size of the garden area.

Conclusion

11. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board

INSPECTOR

Appendix A – 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 not be carried out other than in complete accordance with the approved plans and specifications as set out on plan numbers 16-891-P-01 Rev B, 16-891-P-02 Rev A and 16-891-Location.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 and provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification) no additional window openings shall be fitted in the east and south west elevations of the development without the prior permission of the Local Planning Authority.
- 5) Details of the surfacing and drainage of any car parking service area hereby approved shall be submitted to and approved by the Local Planning Authority before the development hereby permitted is commenced. The details thereby approved shall be installed prior to the occupation of any building on the site.
- 6) No works or development shall take place until full details of a landscaping scheme to include all hard surfaces, grassed areas, tree and shrub plantings and the proposed times of planting, has been approved in writing by the Local Planning Authority, and all grassed areas shall be laid out and all tree and shrub planting shall be carried out in accordance with those details and at those times. Within one month of the completion of the landscaping scheme written confirmation of the completion date shall be submitted to the Local Planning Authority. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 7) The parking area for the proposed dwelling as identified on the approved plan shall be laid out and ready for use prior to the occupation of the building hereby permitted.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995, (or any Order revoking and re-enacting that Order with or without modification) no building, extension or other structure shall be erected, constructed or placed within the curtilage of the dwelling hereby permitted without the prior permission of the Local Planning Authority.

