



Appeal Decision

Site visit made on 12 July 2019

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/B0230/W/19/3227194

52 High Town Road, Luton, LU2 0DF

- 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 Network Property Limited against Luton Borough Council.
 - The application Ref 18/01731/FUL dated 8 November 2018 was refused by notice dated 25 February 2019.
 - The development proposed is the erection of a single storey rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the proposal, as stated on the refusal notice, as it more concisely describes the proposal than that on the original application form.

Main Issues

3. The main issues to be considered are i) the impact of the proposal upon the living conditions and amenities of the occupiers of the basement flat at no. 52B High Town Road and ii) the impact of the proposal upon the character of the existing property and appearance of the site and surrounding area.

Reasons

4. The appeal site is a two and half storey mid terraced property with rear access of Duke Street. The ground floor of the building is a retail shop. At basement level there is a one bedroom flat. The site is located within the High Town Road Conservation Area.

Living Conditions and Amenities

5. 52B High Town Road (no. 52B) is a basement flat within the appeal site. Whilst I do not have the full application documents before me it is stated to have been approved¹ with a condition requiring the amenity and parking space approved to remain available to the occupant(s) of the flat so long as remains in existence. This condition is stated to have been applied specifically to protect the amenities of the future residents of the basement flat. The appeal

¹ 02/00212/COU

proposal seeks to build the single storey extension within that amenity and parking space which was conditioned.

6. Taking the proposal footprint away from the total outside space available, 45 sq./m may well be left on site, but I do not find that this leaves adequate amenity space for the occupiers of no. 52B. The site plan for the extension demonstrates a service entrance with a ramp providing access. This combined with the footprint of the extension, and two car parking spaces, would result in the entire space being utilised with no provision for amenity space associated with no. 52B. It would not leave any of the rear garden open. The very nature of a service entrance for staff, deliveries etc. would also impact further upon the amenity of the occupiers of no. 52B given comings and goings associated with it. This would result in no truly private area for occupiers.
7. The footprint of the extension would be up to the boundary of the stairs to the basement flat, not set away, in very close proximity to the entrance and the window in the rear elevation. This would be directly in breach of the 45-degree code and would reduce the size of the light well. The height of the proposal, compared to the basement flat window, will result in an overbearing impact on the occupiers of no. 52B and reduce the natural light into the living area of the flat which I find would create an oppressive living environment.
8. The loss of amenity space, and a reduction in natural light, as a result of the proposal would unacceptably impact upon the living conditions and amenities of the occupiers of the basement flat at no. 52B.
9. The proposal would be contrary to Local Luton Plan 2017 (LP) Policy LLP19 which seeks to ensure that extensions do not adversely affect the amenity of nearby occupiers in respect of loss of light or loss of privacy. The proposal would also conflict with LP Policy LLP25 which requires high quality design and provision of amenity space with minimisation of loss of light and would also be contrary to LP Policy LLP1 which applies a presumption in favour of sustainable development, but only where proposals accord with other local plan policies.

Character and Appearance

10. The extension relates to extending the existing retail unit and at the time of my site visit, and from the submitted plans, I note there are varying forms of back land development within the area but that they are relatively unnoticeable from the surrounding streets. I do not find that a precedent has been set, each case must be considered on its own merits.
11. The site is located within the High Town Road Conservation Area (CA); however, the Council have not raised any specific issues within their delegated report as to impacts upon the CA itself nor does this form part of the reasons for refusal. The appeal site benefits from vehicular access off Duke Street. As a result of this the appeal site is highly visible within the street scene from Duke Street which is a public area.
12. I find that the proposal would reduce the openness to the rear of the property which, combined with parking as demonstrated on the submitted site plan, would result in an over intensive, cramped, use of the site. This would ultimately appear as an incongruous addition to the rear of the host dwelling as a result of all the activities which would have a negative impact upon the appearance of the area. The scale may be small compared to the host dwelling

but I find that the design, with a mono-pitch roof, fails to respect the character of the host property or the immediate area.

13. The proposal would conflict with LP Policy LLP1 which requires development to contribute to enhancing a sense of place, preserve or improve the character of the area, LP Policy LLP19 which requires the scale and layout to be consistent and proportionate to the principal dwelling, streetscape and character of the area and LP Policy LLP25 which requires proposals to enhance the character of the area by responding positively to the street scene, site and building context.

Other Matters

14. The Council's decision notice makes reference to LP Policy LLP15 which is primarily concerned with housing allocations. Given that the appeal proposal is for an extension to a retail premises I do not find this policy, or appendix 4, to be of direct relevance to the proposal.
15. I note the appellant's comments regarding a pressing need for the extension, however, the requirement is based upon the personal needs of the current occupier's business which is of limited weight. If there is evidence of commercial stores which have closed down it is possible that the occupier's successful business could re-locate to a larger, more suitable, premises within the immediate area. It is of course acknowledged that there are likely to be economic benefits to sustaining local business, however, on this occasion I do not find that they outweigh the harm or policy conflict which I have identified, most notably the impact upon the occupiers of the basement flat at no. 52B.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR