



Appeal Decision

Site visit made on 27 August 2019 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2019

Appeal Ref: APP/B0230/D/19/3231045

18 Rutland Crescent, Luton LU2 0RF

- 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 Dr Noor Al-Sudani against the decision of Luton Borough Council.
 - The application Ref 19/00276/FULHH, dated 4 March 2019, was refused by notice dated 28 May 2019.
 - The development proposed was originally described as "the erection of an outbuilding to be built at the back of the 30 metre rear garden of 18 Rutland Crescent and detached from the main dwelling. The build will have externally measured dimensions of 7.5 metres (width) by 4 metres (depth)".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached rear outbuilding at 18 Rutland Crescent, Luton, LU2 0RF in accordance with the terms of application Ref 19/00276/FULHH, dated 4 March 2019 and the plans numbered Location and Site Plan A101 (dated 03/03/19), Outer-Building Drawings A100 (dated 20/03/19) subject to the following conditions:
 - 1) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.
 - 2) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling at 18 Rutland Crescent.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The description of development used in the decision above is based on that used on the appeal form and the Councils' decision notice as it more concisely describes the proposal.
 4. The application was submitted retrospectively and during the site visit I observed that the works have been partially carried out. Accordingly, I have considered the proposal on this basis.
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Main Issues

5. The main issues are

- The effect of the development on the character and appearance of the area;
- The effect of the development on the living conditions of the occupants of 16 & 20 Rutland Crescent and 8A Durham Road, having particular regard to privacy and outlook; and
- Whether the development would be incidental to the main dwelling.

Reasons for the Recommendation

Character and appearance

6. The appeal site accommodates a two-storey semi-detached property situated within an established residential area characterised by semi-detached dwellings of similar size and design, with narrow rear gardens. The appeal property has a long rear garden which slopes down towards the rear. The partially built outbuilding occupies the full width of the far end of the garden, and its northern side elevation abuts the southern boundary fence of the bungalow at 8A Durham Road.
7. The character of the area to the rear of the houses on this part of Rutland Crescent is typical of residential rear gardens, with various outbuildings, garages, sheds, decking and domestic paraphernalia. The outbuilding is located deep within the garden, it is single-storey and has a dual-pitched roof. I find it appears quite conventional in its design and siting, and would therefore not appear out of place in this location. The height, depth and width of the outbuilding also does not appear innocuous or obtrusive. In terms of scale and design therefore, I find that the proposed development respects the appearance of the host dwelling and the area and does not constitute poor design.
8. I therefore find the development does not harm the character and appearance of the surrounding area. The proposed development is in accordance with policies LLP1, LLP19 and LLP25 of the Local Luton Plan 2011-2031 (the 'Local Plan') and the National Planning Policy Framework (the 'NPPF') which together seek to ensure proposals are well designed and contribute positively to the character and appearance of the surrounding area in which they lie.

Living conditions

9. The development would be visible to the occupiers of surrounding properties, namely 16 & 20 Rutland Crescent and 8A Durham Road. Although Nos 16 and 20 have views of the development from their rear, the separation distance between these properties and the development ensures there is no harmful impact on the outlook of the occupiers of these two properties such that their living conditions are affected.
10. Similarly, due to its modest scale, the development would not appear so obtrusive from the rear elevation and garden of 8A Durham Road that it would unacceptably disrupt the outlook or living conditions of the occupiers. I note the neighbour at No. 8A is concerned with regards to overlooking from the roof window. However, as the proposed window is at a high level and within a

shallow roof, there will be no clear line of sight of the neighbouring dwelling from within the outbuilding. I therefore find there will be no loss of privacy and the Council supports my view.

11. Overall, I conclude there is no unreasonable impact on the living conditions of the occupiers of 16 & 20 Rutland Crescent and 8A Durham Road with regards to loss of privacy or outlook. The development therefore accords with policies LLP1, LLP19 and LLP25 of the Local Plan, as well as the NPPF which together aim to ensure a high standard of amenity for all residents.

Whether the development would be incidental to the main dwelling

12. There is concern that due to its size and distance from the host dwelling, the building could be used as a self-contained unit. Though I agree that the building would be considerably detached from the main house in spatial terms, I find that the building clearly relates to the main house as it has no independent access and is not excessively sized for its intended use as an annexe for a couple. Notwithstanding this, its occupation can be controlled by a planning condition, to ensure that it remains ancillary to the main house.
13. I therefore find the development will not conflict with policy LLP19 of the Local Plan which seeks to ensure residential annexes are ancillary to their principal dwellings, as well as policies LLP1, LLP25 and the NPPF which together aim to ensure proposals are well-designed for their function.

Conditions

14. The Council has suggested a number of conditions that it would wish to see imposed in the event that the appeal was successful. I have considered the suggested conditions against the advice on conditions set out in the NPPF and the Planning Practice Guidance.
15. I have not included the suggested condition relating to the commencement of the development as the development has clearly already commenced. I have also included the relevant plans within the terms of the decision in the interests of certainty. However I have included a condition requiring the external finishing materials match the main house, to protect the character and appearance of the area.
16. Furthermore, to ensure that the accommodation remains at all times incidental to the main use of the property, I have imposed a condition specifying the development shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling.
17. Although the Council suggests a condition controlling the insertion of windows in the side elevations in the interests of protecting the privacy of neighbouring residents, I consider the separation between the development and neighbouring dwellings means such a condition is unnecessary.

Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR