



Appeal Decision

Site visit made on 10 March 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2020

Appeal Ref: APP/B0230/D/19/3241807

11 St Augustine Avenue, Luton, LU3 1QB

- 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 Saleem Akhter against the decision of Luton Borough Council.
 - The application Ref: 19/00746/FULHH dated 3 June 2019, was refused by notice dated 4 September 2019.
 - The development proposed is erection of two-storey side and single storey rear extension with raised patio.
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Decision

1. The appeal is allowed, and planning permission is granted for the Erection of two storey side and single storey rear extension with raised patio at 11 St Augustine Avenue, Luton, LU3 1QB in accordance with the terms of application Ref: 19/00746/FULHH dated 3 June 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans/drawings numbered: A501 Revision A; A101 Revision A; A201 Revision A; A102 Revision C; A203 Revision C.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The development hereby permitted shall not be occupied until the proposed parking areas indicated on plan/drawing Ref A501 Rev A have been drained in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those areas shall thereafter be kept available at all times for the parking of vehicles.
 - 5) Pedestrian visibility splays of 1.8 x 1.8 metres shall be provided on either side of any access where extended. The splays shall be positioned within the site at right angles to the highway (measured at highway boundary/site boundary). The visibility splays so described shall be maintained free of any obstruction to visibility exceeding a height of 600 mm above the existing ground level.

Procedural Matters

2. The site address on the planning application form is set out in a manner that repeats itself. Therefore, for clarity, in the banner heading above I have used the address as set out in the appellant's appeal form and Council's decision notice.
3. The Council's third reason for refusal states that the proposed development would injuriously affect the amenities of the adjoining properties by visual intrusion. The delegated report clarifies the impact would relate to No. 13 St Augustine Avenue but states there would be no material harm in terms of loss of light or outlook. However, having regard to the description of the harm, visual intrusion is considered to equate to outlook. The development also proposes windows on the side elevation facing No. 13. Therefore, I have had regard to these matters in setting out the main issues below.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the host dwelling and wider area; and,
 - the living conditions of the occupiers of No. 13 St Augustine Avenue, with particular reference to outlook and privacy.

Reasons

Character and appearance

5. The appeal site dwelling is within a wide corner plot, forming the eastern side of a terrace of four gable roof dwellings fronting onto St Augustine Avenue. The side of the plot is formed by an approximately 1.4m to 1.8m high brick wall along the footway of St Mildreds Avenue, which slopes gently down to the north from the junction with St Augustine Avenue. This results in the side and rear of the appeal site dwelling being visible in a slightly elevated position when viewed from the north and the east. Some nearby dwellings have undergone alterations or modifications, and a minority have a hipped roof, loft conversions or are semi-detached. However, the majority are terraced with small front gardens/driveways and maintain their original gable roof form, which is part of the character of this area.
6. The extension would be just over half the width of the existing dwelling, set approximately 0.2m lower than the ridge and set back approximately 0.6m from the first floor front elevation. Notwithstanding the elevated position, it would result in the development respecting the scale and size, appearing subservient to the host dwelling, and being acceptable in terms of massing. The extension would largely follow the shape of the gable elevation and existing rear mono-pitch projection, finished in materials to match the host dwelling. The windows would be positioned at a similar level and be spaced appropriately in relation to the existing openings. Therefore, the proposed development would be in keeping with the form, shape, character and appearance of the host dwelling.
7. The extension would infill most of the side of the plot and project forward of the existing building line of dwellings along St Mildreds Road, having a modest enclosing effect on the junction. However, the extension would be stepped and off-set from the site boundary, providing a sufficient gap, to ensure it would not appear an over intensive form of development. The effect of the enclosure

of the junction would be limited. The resulting space and width of the junction would retain an acceptable and satisfactory sense of space and openness.

8. Therefore, for the reasons set out above the proposed development would not be harmful to, and would be in keeping with, the character and appearance of the host dwelling and the wider area. Accordingly, it would be compliant with Policies LLP1, LLP19 and LLP25 of the Luton Local Plan (November 2017) (the Local Plan). In combination and amongst other things, these policies expect development to be consistent with, proportionate and ancillary to the host dwelling, and be of a high quality design that preserves or enhances the character of an area by responding positively to the site and building context. For these reasons, the development would also be compliant with paragraphs 127 and 130 of the National Planning Policy Framework (2019) (the Framework).

Living conditions

9. No. 13 St Augustine Avenue is located to the east of the appeal site across the junction with St Midreds Avenue, set at a slightly lower level. The development would bring the host dwelling closer to No. 13, resulting in separation distances of approximately 19m between the flank elevations and approximately 12m between the development and the rear garden of No. 13. Having regard to the distance and relationship between the properties, and the form the proposed development, the resulting outlook would be acceptable from the side windows and rear garden of No. 13. Consequently, the development would not appear overbearing or visually intrusive.
10. The proposed distance between flank windows appears similar to the distance between facing properties on St Augustine Avenue. This distance would be sufficient to avoid any harm from the facing flank windows in respect of privacy. The distance from No. 11 to the rear garden and the existing boundary fence of No. 13 would be an acceptable distance so as to not result in harmful living conditions in respect of privacy.
11. For the reasons set out above, the proposed development would not result in harmful living conditions to the occupiers of No. 13 St Augustine Avenue, with regard to loss of outlook or privacy. Therefore, the proposed development would not conflict with Policies LLP1, LLP19 and LLP25 of the Local Plan or paragraph 127 of the Framework. In combination and amongst other things, these expect development should create places that promote health and well-being, protect the living conditions of neighbouring occupiers and provide a high standard of amenity for existing and future users.

Other Matters

12. The Council has suggested that approving this development would make it difficult to resist similar developments which could be harmful to the character and appearance of the wider area. It is acknowledged that there would be other opportunities to develop corner plots in a similar manner in the future. However, each application and appeal must be determined on its own merits. Given I have concluded the proposed development would be acceptable, I can see no reason why it would lead to harmful developments on other sites in the area.

13. The Council has concluded that (aside from the reference to visual intrusion to No. 13), the proposed development would not result in material harm in respect of daylight or overshadowing and no other properties would be materially affected by the proposed development. Based upon the evidence before me, I see no reason to disagree. The proposal includes the provision of three parking spaces in accordance with the Council's standards for parking.

Conditions

14. It is necessary to specify conditions for the time limit for commencement and compliance with the approved plans to ensure certainty. A condition is necessary to ensure the external materials used in construction match the existing dwelling, to avoid harm to the character and appearance of the area. The Council has suggested a condition to withdraw permitted development rights for window openings on the western flank elevation. However, the western elevation of the development adjoins the host dwelling. The eastern elevation is set a sufficient distance and angle from other properties that removing those permitted development rights is not justified. Therefore, such a condition is not necessary.
15. The Highway Authority has suggested informative advice in respect of works within or over the public highway and vehicular crossovers. Such works are the subject of other legislation. Therefore, that suggested informative advice is not considered necessary. A condition securing pedestrian visibility splays for any extended access is necessary in the interests of highway safety. As the development would increase the amount of hardstanding within the appeal site, a condition securing a surface water drainage scheme is necessary to ensure drainage can be adequately accommodated.

Conclusion

16. For the reasons set out above, and having regard to all the matters raised, I conclude that the appeal should be allowed, and planning permission is granted.

Dan Szymanski

INSPECTOR