
Appeal Decision

Site visit made on 3 June 2020 by John Gunn DipTP Dip DBE MRTPI

Decision by Beverley Doward BSc BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2020

Appeal Ref: APP/B0230/D/3244126

19 Wellgate Road, Luton, Bedfordshire LU1 9TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr I Ahmed against the decision of Luton Borough Council.
 - The application Ref 19/01381/RES, dated 17 October 2019, was refused by notice dated 3 December 2019.
 - The development proposed is a single storey rear extension with glazed atrium.
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Decision

1. The appeal is dismissed.

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 provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), under Article 3 and Schedule 2, Part 1, Part A (12) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made in the same manner.

Main Issue

4. The main issue is whether the proposal would impact on the amenity of any adjoining properties.

Reasons for the Recommendation

5. The appeal site comprises a two-storey detached dwelling located in a road that has a mixture of bungalows and houses set within an established residential area. It has common boundaries with Nos 17 and 21 Wellgate Road.

5. No 17 has a set of windows in the side elevation, towards the front of the property, and a further window towards the rear of the property which face towards the host property. The windows towards the front of the property face predominantly onto the gable wall of the host property and appear to serve a room that also has a window facing towards the street. The window towards the rear of the property, according to its occupier, serves a kitchen. Based on what I saw on my site visit, it appeared to be the only window serving that room. The window is approximately 1 metre from the boundary fence, which both parties agree is approximately 1.8 metres high.
6. The proposal would project 6 metres beyond the rear wall of the original dwelling, would be 3.6 metres at its highest point and would measure 3 metres to the eaves. It would extend across the whole width of the host property. From my site visit and the evidence submitted I saw that it would be set in from the common boundary by approximately 600mm. The outlook and daylight from the set of windows towards the front of No 17 is already significantly impacted by facing onto the gable wall of the host property, however the affected room does benefit from additional windows fronting the road. Consequently, the impact on the living conditions on the occupiers, in this respect, would be limited. The development would result in a wall being erected approximately 1.6 metres from the kitchen window and projecting approximately 1.2 metres above the fence line. It would project approximately 2 metres beyond the kitchen window. Given the close proximity and height of the proposal there would be an increased sense of enclosure for the occupants of No 17 and their outlook would be significantly diminished as a result.
7. No 17 lies to the north of the appeal property and the kitchen is likely to benefit from some sunlight, particularly in the morning. However, the amount of sunlight and daylight reaching into the kitchen is already affected by the boundary fence. The appellant indicates that the proposal would not break a line drawn at a 25 degree angle from the mid-point of the kitchen window of No 17. Whilst acknowledging that the use of this methodology can assist in the assessment of development proposals, I have been provided with no evidence to indicate that the Council adopts this approach to determining applications. Notwithstanding the evidence submitted the rear extension would, as a result of its height and rearward projection, be likely to further reduce the amount of light entering the kitchen of No 17. Such a situation would result in a gloomy kitchen environment within this property which would be less pleasant to use.
8. No 21 projects a significant distance beyond the rear wall of the appeal property. It is set in from the boundary by over 2 metres. In the side elevation, at ground floor level, it has two high level obscure glazed windows towards the rear of the property, a glazed porch approximately mid-way along the side elevation and a further window towards the front of the property. A dormer window overlooks the appeal site at first floor level.
9. An existing garage, which currently lies adjacent the boundary with No 21, would be demolished to make way for the proposal. The appeal proposals, whilst being slightly higher than the existing garage, would be set further into the appeal site and as a result it is unlikely that the amount of light reaching into the ground floor rooms of No 21 would be significantly affected if the development was to proceed. A dormer window at roof level, overlooks the appeal property, however it is at a much higher level and set in several metres

from the boundary. Any impact on the amount of light entering into the first floor rooms would be very limited. In the light of the above it is unlikely that there would be a significant loss of daylight to the occupiers of No 21.

10. The occupier of No 21 has raised a number of additional concerns relating to the impact of any new foundations being laid in close proximity to No 21, the need to rectify any damage caused during the demolition of the existing garage, the depth of the proposed development, the structural integrity of any support for a proposed sliding gate, any proposals to provide a new garage and the disposal of refuse. The matter relating to the sliding gate falls outside the remit of the current proposal. Any future proposals for a replacement garage would be considered by the Council in accordance with legislation and policies applicable at the time of consideration. The remaining matters, including construction issues and damage to property, fall outside planning legislation and are not matters that can be addressed through this appeal.
11. I acknowledge that an extension having a depth of 4 metres would be likely to be 'permitted development' and would have some impact on the amenities of the occupiers of No 17. However, the impact would be more limited than the appeal proposals in terms of its effect on outlook and light. In any event I am required to consider the proposal before me on its own individual merits.

Conclusion and Recommendation

12. In light of the above I conclude that the proposal would have a harmful impact on the amenity of the occupiers of 17 Wellgate Road by reason of loss of outlook and light and therefore I recommend that the appeal should be dismissed.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

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

Beverley Doward

INSPECTOR