



Appeal Decision

Site visit made on 15 September 2020 by G Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Appeal Ref: APP/B0230/D/20/3252443

15 Wychwood Avenue, Luton LU2 7HT

- 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 Shuab Miah against the decision of Luton Borough Council.
 - The application Ref: 20/00029/FULHH, dated 8 January 2020, was refused by notice dated 3 March 2020.
 - The development proposed is erection of front porch, first floor rear extension, single storey rear and first floor front in-fill side extension, rear dormer.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of front porch, first floor rear extension, single storey rear and first floor front in-fill side extension, rear dormer at 15 Wychwood Avenue, Luton LU2 7HT in accordance with application Ref: 20/00029/FULHH, date 8 January 2020 and 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 following plans: OS Plans DWG No. 06/06, Proposed Elevations DWG No. 04/06 and Proposed Plans DWG No. 03/06.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials those on the existing dwelling and shown on the approved plans.
 - 4) Notwithstanding the provisions the Town and Country Planning (General Permitted Development) (England) Order, 2015, (or any Order revoking and re-enacting that Order with or without modification) no windows shall be inserted on the northern or southern side elevation of the building.

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. An appeal for an extension to this property was allowed in December 2019 (Appeal Ref: APP/B0230/D/19/3230482) and I have taken into consideration the conclusions of this decision in the determination of this appeal.

Main Issues

4. The main issues are:

- i. The effect of the proposed development upon the character and appearance of the host dwelling; and
- ii. The impact of the proposed development upon the living conditions of the occupiers of No.13 and No.17 Wychwood Avenue with regard to outlook and loss of sunlight.

Reasons for the Recommendation

Character and appearance

5. The appearance of the front elevation of the proposed extension in the previously approved scheme is the same as that before me, other than the replacement of the garage door with a window. The proposed window would be appropriate in both scale and appearance and there are several examples within the street where similar development has taken place. The Inspector for the previous appeal concluded that the extension and porch would be subordinate in scale and appearance to the host dwelling and found that there were a number of extensions within the street scene that were flush with the host dwelling. I agree with the conclusion of the Inspector and the alteration now proposed would not harm the character of the dwelling or the street scene.
6. The proposed two-storey extension to the rear would be the most significant difference between the approved scheme and the one before me. It would encompass half the width of the dwelling built on the side closest to No.17 and would only be partially visible within the street scene. Due to fact that the two-storey element would not be particularly deep, the scale of the extension would not detract from the appearance of the dwelling. Furthermore, although the combined rear extensions would create a more congested appearance to the rear the development would not appear out of character within an area where several dwellings have two storey rear extensions. Although the rear extensions would be substantial the rooflines would be staggered, with the two storey element set down from the main ridge with a hipped roof to match the existing dwelling and I am satisfied that the rear extensions would not cause harm to the appearance of the dwelling.
7. Therefore, the proposed extension would be subordinate to the host dwelling and would not cause harm to the character and appearance of the dwelling or the street scene. As a result, the proposal would be in accordance with Policy LLP1 of the Luton Local Plan 2011 – 2031 (LLP) (adopted 2017) which states that the Council will require all new development in the borough to contribute to enhancing a sense of place preserve or improve the character of the area. The proposal would also comply with the specific design aspects of Policy LLP19 which identifies a number of development requirements for extensions to dwellings. The proposal would also be in accordance with the design aspects of Policy LLP25 which looks to ensure that development enhances the distinctiveness and character of the area.

Living conditions

8. The single storey element of the extension that would be located on the boundary with No.13 would be next to the raised patio area and the rear living

- room for No.13. The single storey rear extension for No.13 is set forward of the rear elevation of No.15 and is located on the shared boundary between the two properties. Whilst the single storey extension would be around 5.5m deep only approximately half of the extension would extend beyond the rear elevation of the single storey extension to No.13. Furthermore, the shallow pitched roof would slope away from the shared boundary which would reduce the impact the side extension would have upon the occupiers.
9. For this reason, the proposed single storey extension would not cause detrimental harm to the outlook for the occupiers. The extension would enclose the patio area to the rear of No.13 with the single storey extension opposite, but the rest of the garden would be left unduly affected by the proposal. Whilst the patio area would be enclosed, given the height and depth of both the proposed extension and the extension opposite to it, the partial enclosure of the patio area would not cause detrimental harm to the living conditions of the occupiers. Given the gap between the side elevation of the proposed two-storey extension and No.13 and the depth of the proposed extension, it would not appear overbearing to the occupiers of that dwelling or cause overshadowing.
 10. Between No.17 and No.15 is the driveway for No.17 which leads to the single storey garage which is located to the rear of No.17 on the boundary between the two properties. Because No.17 has not been extended there is a gap between the side elevation of the proposed two storey elevation and No.17. Given the width of the gap between the two properties and the relatively modest depth of the two-storey rear extension, the proposal would not appear overbearing or result in a detrimental loss of sunlight to the occupiers of No.17. Furthermore, whilst the depth of the single storey rear extension along this shared boundary would be quite deep, it would not be significantly taller than the adjacent garage which would screen views of much of the single storey element. As a result, that part of the proposal would not appear overbearing to the occupiers of No.17.
 11. Therefore, the proposed development would not result in a loss of sunlight or outlook for the neighbouring occupiers and would not cause harm to their living conditions. Consequently, the proposal would be in accordance with Policy LLP1 of the LLP which states that planning permission will be granted where applications accord with the local plan policies when taken as a whole, unless other material considerations indicate otherwise. The proposal would not comply with Policy LLP19 and LLP25 insofar as the policies requires extensions to not adversely affect the amenity of nearby occupiers, in respect of visual intrusion, loss of light, loss of privacy and/or overlooking particularly where there is effect on a habitable room.

Conditions

12. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the approved plans, for the avoidance of doubt. In the interests of the character and appearance of the area a condition is also necessary to ensure that the materials match those on the host dwelling as well as the approved plans.
13. A condition controlling the insertion of windows in the northern and southern side elevations is necessary in the interests of protecting the privacy of neighbouring residents.

14. The Council has suggested a condition which would require the building/and or site to be used as a single family dwellinghouse as specified within Class C3 of the Town and Country Planning (Use Classes) Order. Conditions should only be imposed where doing so is necessary to avoid a refusal of planning permission. The suggested condition is not necessary because it does not make the development, in this instance an extension, acceptable in planning terms. The application did not propose to change the use of the building and the proposed condition would be wider in scope than is necessary to achieve the desired objective of ensuring the proposed extension is acceptable in planning terms. Therefore, I have not included the suggested condition.

Conclusion and Recommendation

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

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed.

Chris Preston

INSPECTOR