
Appeal Decision

Site visit made on 15 September 2020 by John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/B0230/D/20/3252820
33, Bishopscote Road, Luton LU3 1NZ

- 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 M Taj against the decision of Luton Borough Council.
 - The application Ref 20/00091/FULHH, dated 18 January 2020, was refused by notice dated 18 March 2020.
 - The development proposed is erection of an outbuilding to form garage and gym.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of an outbuilding to form garage and gym at 33, Bishopscote Road, Luton LU3 1NZ in accordance with the terms of application Ref 20/00091/FULHH, dated 18 January 2020, and the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. 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.
 3. The development hereby permitted shall be carried out in accordance with Drawing No. A102 - Site location & proposed plans & elevations

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.

Main Issues

3. The effect of the proposed development upon 1) the character and appearance of the area, and 2) the living conditions of the occupiers of neighbouring properties, with regard to outlook, noise and disturbance.

Reasons for the Recommendation

Character and appearance

4. The appeal property is a mid-terrace house located within a suburban residential area. There are a number of large outbuildings to the rear of the terrace of which the host property forms part and nearby in Fitzroy Avenue, of varying designs and structural quality. It is within this context that the appeal proposal would be viewed.
5. The outbuilding would replace an existing flat roofed garage to the rear of the property. The Council has indicated that it would be 2.5 metres deeper than this building with a pitched roof of 3.3 metres in height. Whilst larger than the existing garage, I find that the new outbuilding would be of a domestic scale, which given its position set back from Fitzroy Avenue would not be intrusive in the street scene, even when the gates to the access to the garage were open.
6. Moreover, whilst it would be visible from the rear of nearby properties, it would be viewed in the context of nearby outbuildings. The use of materials to match the host property, and a roof design similar to other development in the locality, would ensure that the proposal would not appear out of place.
7. The proposal would not result in a reduction in the size of the existing rear garden because the increase in the depth of the building would take in part of the access to the garage, as opposed to it encroaching into the garden. Notwithstanding this, the garden area that would remain to the host property would be similar in size to rear gardens found elsewhere within the terrace, including those at Nos 29 and 31 Bishopscote Road.
8. In light of the above I conclude that the proposal would not be harmful to the character and appearance of the area. There would be no conflict with Policies LLP1, LLP19 or LLP25 of the Luton Local Plan 2011-2031 or the National Planning Policy Framework (the Framework) which jointly require, amongst other things, for development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features.

Living conditions

9. The proposed development would sit at a slightly lower level than the host property and its immediate neighbours, in the same position as the rear elevation of the existing garage. Whilst taller than the existing structure, the proposal would be located sufficiently far away from the rear facing windows of nearby properties to ensure that it would not be overbearing or intrusive in the outlook from them. The depth of the building would not be readily discernible from these areas. Consequently, the building's presence would be unlikely to make the rooms that these windows serve less pleasant to use.
10. Whilst the flank wall of the proposed development would be visible from the rear garden of No 35, the increase in the length beyond the existing garage would be small and as a result any additional impact on the outlook from the rear garden would be limited. As a result, this element of the proposal would

not have a significant adverse impact on the occupiers' outlook. Moreover, its domestic scale would ensure that it would not be intrusive within the garden environment of either this property or that of nearby dwellings.

11. I noted that 1 car, in an unroadworthy condition, was parked in the access drive, however there was no indication that commercial activity was taking place at the appeal site at the time of my visit. It is noteworthy that the Council found similarly when their officer visited the site. The use of the building as a garage and gym associated with the residential use of No 33, as confirmed by the appellant in his statement, would be unlikely to result to in a level of noise or cause disturbance to a degree that would result in harm to the living conditions of nearby occupiers.
12. In light of the foregoing I conclude that the proposal would not harm to the living conditions of the occupiers of neighbouring properties. Consequently, there would be no conflict with Policies LLP1, LLP19 or LLP25 of the Luton Local Plan 2011-2031, or the Framework which jointly seek to secure a high standard of amenity for existing and future occupiers.

Conditions

13. In addition to ensuring adherence to the approved plan, a condition securing the use of matching materials is necessary in the interests of the character and appearance of the area.
14. The Council has requested a condition preventing the conversion of the garage to living accommodation without their prior permission. The appellant has indicated that the development is proposed for a use incidental to the host property and consequently, a condition to restrict its use is not considered necessary. If following a grant of permission, the structure is not built or used as proposed, or if there is a future material change of use to create a separate dwelling, then another grant of permission would be required, and the building or use would be at risk of enforcement action if such permission is not granted. Consequently, I consider that it is not necessary to include a condition as suggested.

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 subject to the conditions set out above.

J Gunn

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 the appeal is allowed with the recommended conditions.

RC Kirby

INSPECTOR