



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: 3 November 2020

Appeal Ref: APP/B0230/D/20/3251814

592 Dunstable Road, Luton LU4 8RT

- 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 Dharmendra Patel against the decision of Luton Borough Council.
 - The application Ref: 19/01609/FULHH, dated 9 December 2019, was refused by notice dated 3 February 2020.
 - The development proposed is 'proposed front garden wall and sliding gate.'
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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.

Preliminary Matters

3. Within his appeal statement the appellant recognised some of the Council's concerns with regard to the visual impact of the proposed boundary treatment and put forward an alternative scheme for a wall with lower brickwork and a patterned ironwork/ railings above. The appellant indicates that the design would be similar to that used at No.570 Dunstable Road but no revised plans were submitted to indicate the relative proportion of wall to railings, or the precise location of any amended proposal – the enclosure at No.570 has a splayed entrance, unlike the original proposal in this case and it is not clear if that is what the appellant proposes in any amended scheme.
4. In any event, where an appeal is made to the Planning Inspectorate, it is made against the details that were considered by the Council at the application stage. Essentially, the appeal system offers the opportunity of an independent review of the Council's decision. It is not the purpose of that system to evolve or make significant changes to the design of proposals. Householder appeals are determined under an expedited procedure where the Council's case is reliant on the delegated officer report which considered the original proposal. The proposed changes would significantly alter the appearance of the proposal and to accept amendments would deprive the Council, or any interested parties, of the chance to comment which may cause injustice.

5. Consequently, I have considered the appeal on the basis of the plans that were before the Council at the time the application was considered. Should the appellant wish to make amendments to the scheme it is open to him to discuss that with the Council with a view to making a revised planning application.

Main Issues

6. The main issues are:
- i. The effect of the proposed development upon the character and appearance of the street scene; and
 - ii. The impact of the proposal upon highway safety.

Reasons for the Recommendation

7. No.592 is a detached dwelling that is set back from Dunstable Road behind a spacious front garden with a low-level brick wall. Other dwellings within the immediate street scene have similar characteristics. The dwellings along this side of Dunstable Road are typically built at a lower ground level than the road and this combined with the low boundary walls contributes to the open, suburban appearance of the street scene, notwithstanding the urbanising effect the dual carriageway.
8. The proposed brick wall would have metal railings above it and at its tallest would be around 1.9 metres tall and at its lowest about 1.7 metres tall. The boundary wall would have a central sliding metal electric door that would be built up against the side of the footpath.
9. The plot for No.592 is wider than the dwelling and because of this the boundary wall extends across a larger proportion of the immediate street scene than the walls of neighbouring dwellings. The use of the metal railings would retain some of the openness but would only account for a small proportion of the wall and the combined height and length of the proposed wall would appear incongruously bulky and oppressive next to the surrounding low-level boundary walls. When combined with the change in levels between the dwelling and the street, the wall would block views of the surrounding area and this would urbanise the appearance of the street scene.
10. The materials proposed would be appropriate within the street scene, but the height and bulky appearance of the wall would harm the character and appearance of the street scene. Therefore, the proposed boundary wall would be contrary to 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. Furthermore, the proposal would not comply with Policy LLP19 insofar as it requires development to respect the existing patterns of development, especially in areas which are spacious in character. The proposal would also be contrary to Policy LLP25 which requires development to enhance the distinctiveness and character of the area.

Highway Safety

11. The submitted plans do not show how the pedestrian visibility splays would be provided from the access point. The visibility splays are required to be maintained free of obstruction to visibility exceeding a height of 600

millimetres (mm) above the existing ground level. The proposed wall and gate would be taller than 600mm and because they would be built up against the footpath, the required visibility splays would not be achieved.

12. Without suitable visibility vehicles exiting the site would have impaired views of pedestrians passing the site which would have an unacceptable impact on highway safety. Therefore, the proposed development would be not 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. Furthermore, the proposal would be contrary to Policy LLP25 which looks to ensure development is safe and easily accessed by all members of the community as well as Policy LLP32 which requires development to provide sufficient parking to help ensure that adverse effects on highway safety and the convenience of nearby residents and users are avoided.

Other Matters

13. The appellant has referred to a number of other dwellings along Dunstable Road where brick walls have been constructed that are taller than the existing wall at the site. It is not clear whether planning permission has been granted for those boundary treatments. Whilst these dwellings are located on Dunstable Road several of them are located on higher ground and nearer to a large roundabout where the area becomes more urbanised in appearance. Furthermore, the boundary walls do not appear to be as tall as the proposed wall and metal railings account for a larger proportion of the structures. It is also important to note that each case must be assessed on their own merits and the Council approving a scheme elsewhere would not justify this proposal in the context of the site in question.
14. The appellant notes that the proposed gate is needed to reduce the risk of crime. Nevertheless, justification has not been provided that the wall must be as tall as is proposed, or as close to the edge of the highway, to ensure the site is secured. In addition, it is common for front boundaries to be low and/ or transparent and that provides a degree of natural surveillance which can assist in deterring crime. I am not satisfied that a wall of the design proposed is the only way of achieving security at the site and consider it likely that the front boundary could be enclosed in a manner that provides security but also addresses the harm identified above.

Conclusion and Recommendation

15. The proposed wall would harm the character and appearance of the street scene and would have an unacceptable impact upon highway safety. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

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 dismissed.

Chris Preston

INSPECTOR