



Appeal Decision

Site visit made on 12 November 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2020

Appeal Ref: APP/B0230/D/20/3258232

84 Rutland Crescent, Luton LU2 0RG

- 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 Cadogan McQueen limited against the decision of Luton Council.
 - The application Ref 20/00684/FULHH, dated 17 June 2020, was refused by notice dated 12 August 2020.
 - The development proposed is erection of two-storey side extension after demolition of garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-storey side extension at 84 Rutland Crescent, Luton LU2 0RG in accordance with the terms of the application Ref 20/00684/FULHH, dated 17 June 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 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 of the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved drawings: Site Location Plan (Issue 1); Proposed Elevations (Issue 1) and Proposed Floor Plans (Issue 1).
 - 4) The first floor window proposed to the north elevation of the permitted extension, as shown on approved drawing titled 'Proposed Elevations' shall be glazed with obscured glass and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. This window shall be maintained as such for the life of the development.

Preliminary matters

2. The description of the proposed development includes the demolition of a garage. Based on my visit, the garage has been demolished and has been replaced by a new extension which was under construction. Whether or not these works are lawful is not a matter for this appeal. However, as the garage no longer exists, in the interests of precision and accuracy, I have reflected this in my Decision.

Main Issue

3. The main issue is the effect of the proposed extension on the living conditions of the occupiers of 2 Devon Road (No 2) with regard to outlook.

Reasons

4. The appeal property (No 84) is located to the side of and about 11m beyond the rear elevation of No 2. Although No 2 incorporates a number of rear-facing windows, views from these are largely directed towards its rear garden and beyond.
5. The proposed extension would be set-back from the principal elevation of No 84. It would also have a modest width of about 3.4m and a lower ridge height than the host property. The design and detailing of the proposed extension would also be consistent with the host property. Therefore, it would be an appropriately designed and subordinate addition to the host property. Furthermore, because the host property is set-in and angled away from the shared boundary with No 2, the bulk of the proposed extension would also be recessed from the shared boundary. Along with this, it would be on lower ground relative to No 2 and partly screened from it by the fencing along the shared boundary.
6. Drawing on the above observations, although the proposed extension would be visible from the rear facing windows and garden of No 2, this would be in the context of the host property and because of its subordinate scale, siting and the intervening boundary treatment, the proposed extension would not be visually intrusive or have an oppressive or dominating effect when viewed from No 2.
7. For the above reasons, the proposed extension would not cause any unacceptable harm to the living conditions of the occupiers of No 2 with regard to outlook. As such, the proposed extension would accord with Policies LLP1, LLP19 and LLP25 of Luton Local Plan 2011-2031, which collectively seek to secure high quality design in developments that respond to and enhance the character of the area, and do not adversely affect the amenity of nearby occupiers.

Other matters

8. Concerns raised by neighbours in relation to the appeal property becoming a larger House in Multiple Occupancy and matters in respect of lack of car parking, highways and pedestrian safety, did not form part of the Council's reason for refusal and were addressed in the Council's 'Report of the Case Officer'. I have also considered these matters and have no strong reasons to take a contrary view to the Council.
9. I am aware that a previous planning application for a side extension to the appeal property was refused by the Council and subsequently dismissed on appeal. Nonetheless, on the information available to me, that proposal is not directly comparable to the appeal scheme before me. In any event, each application is determined on its merits.

Conditions

10. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance (PPG) and the National Planning Policy Framework. In addition to the standard timescale condition, I have imposed a condition specifying the approved drawings as this provides certainty. A condition requiring materials to match those on the existing dwelling is necessary to ensure the satisfactory appearance of the development. To safeguard the living conditions of the occupants of No 2, it is necessary to impose a condition in respect of the glazing and design of the first-floor window along the front elevation of the proposed extension.
11. The PPG advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. The Council has suggested a condition requiring planning permission for the installation of any windows to the flank elevation of the appeal property. Nevertheless, due to the existing boundary treatment, there are no exceptional circumstances for removing permitted development rights for ground floor windows. Further, Condition A.3 (b) of Class A of Schedule 1, Part 1, of the Town and Country Planning (General Permitted Development) (England) Order 2015, requires that 'any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be - (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed'. For these reasons, the Council's suggested condition is not necessary.

Conclusion

12. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR