



Appeal Decision

Site visit made on 22 April 2021

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/B0230/C/20/3261794

48 Warden Hill Road, Luton LU2 7AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Joanna Podulka against an enforcement notice issued by Luton Council.
- The enforcement notice, numbered 19/00272/UBO, was issued on 11 September 2020.
- The breach of planning control as alleged in the notice is *Without planning permission the erection of a second floor rear extension ("the Rear Extension") and roof extension ("the Roof Extension") on the Land*.
- The requirements of the notice are to:
 - (i) Demolish the Rear Extension and remove it from the Land
 - (ii) Demolish the Roof Extension and remove it from the Land
 - (iii) Reinstate the roof in accordance with Planning Permission Notice 11/01149/FUL and associated approved plans, reference 1054/6E and roof materials to match existing roof.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decision: The appeal is dismissed and the notice upheld as varied.

Preliminary Matter

1. The appeal was originally made on grounds (a), (d) and (g) but following receipt of the Council's Statement the appeal brought on ground (d) was withdrawn. Therefore I do not need to consider whether, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

Main Issue

2. The Council's reasons for issuing the notice refer to the effect of the development on the character and appearance of the pre-existing extended dwelling and on the local area. These are therefore the principal matters for consideration in the appeal on ground (a). The main issue under ground (g) is whether the time stipulated for compliance is unreasonably short.

Reasons

The appeal on ground (a) and the deemed planning application

Character and appearance

3. 48 Warden Hill Road is a semi-detached property facing north onto a residential road leading from the A6 up the hill towards a school and car park serving

extensive recreational land to the east, thus servicing considerable vehicular traffic. It occupies a corner plot, with the rear of the property facing south onto a crescent of houses in the Warden Hill Gardens cul-de-sac. It is clearly visible in the approach up the hill with its front and side elevations presenting to the approaching traffic travelling towards the recreation ground.

4. The properties in the area are generally either bungalows or (more commonly) semi-detached hipped roofed two-storey properties, having the appearance of typical interwar houses with double height round bay windows to the front and with front courtyards, side passages and rear gardens. A number of the properties' front courtyards have been converted to provide car parking, as at the appeal site.
5. Opposite the side of the appeal site on the other side of Warden Hill Gardens I saw that no 46 Warden Hill Road has been extended to the side in a way not dissimilar from the plans of the approved extension at the appeal site that are referred to in the enforcement notice. The side extension is set back from the front elevation and the hipped roof of the extension provides a lower ridge line than the original dwelling, with the roof planes matching the pre-existing angles thus achieving an overall subordinate effect.
6. Although the front elevation of the side extension at no 48 is set back from the original by an appropriate margin, by contrast with the plans (or no 46) what now appears is a continuous ridge line of the roof to the side gable end. The front eaves and roof slope are maintained in line with that of the original dwelling across the full width of the extended property. This results in a very large overhang to the side extension at the front, and considerably unbalances the appearance of the building as a whole when viewed from the front, with the other half of the building (no 50) retaining its original hipped form.
7. To the rear, the building's roof retains almost no relationship with its original form or that of the dwelling to which it is attached. The rear roof plane is nearly level, having only a very slight incline over the upper rear extension. The upper storey of the rear elevation, inset into the original roof slope very slightly, is tile-hung with three windows inserted, each having a very limited reveal and appearing rather oversized when compared with those in the storey below. Combined with the blank wall of the side extension the result is a rather disagreeable and oppressive building when viewed externally in the context of its surroundings.
8. The Council cites Policies LLP1, LLP19 and LLP25 of the Luton Local Plan 2011 – 2031 in support of its reasons for issuing the notice. Policies LLP1 and LLP25 are of general application, applying a presumption in favour of sustainable development where developments contribute to good design and improvements to the character of an area. Policy LLP19 is specifically addressed to residential extensions, setting out a positive approach to applications subject to the meeting of certain provisos. These include that any extension should be proportionate to the principal dwelling and that it is of an ancillary scale to the original or principal building. Although the extension here is set back at the front elevation, the overall effect of the changes I have described is that it does not achieve this required subordinate, or 'ancillary' effect. I find that it does not constitute good design as required by this and the other policies. Nor is it supported by the National Planning Policy Framework's requirements to ensure that developments are visually attractive and sympathetic to local character.

9. Thus I conclude that the development is contrary to the development plan for the area.

Other matters

10. Nonetheless, other matters are prayed in aid of the development, both by the appellant and by local residents writing correspondence in support.
11. The appellant refers to other similar developments nearby, and to the General Permitted Development Order which grants permission for residential extensions in certain circumstances. The point is made that this type of extension amounts to permitted development where it relates to the original property and does not face onto the public highway, and that such changes have been made at nearby properties including nos 47, 53, 55, and 58 and could continue to be made to other houses in future. I saw at my site visit that hip-to-gable changes have been made at other properties, with rear roof slopes at a similarly shallow pitch to that found at the appeal site.
12. I do not find the existence of these rights and the changes to other properties to be sufficient considerations to indicate a decision other than in accordance with the development plan. First, although permitted development rights are available for residential extensions, no claim is made here that these rights are applicable. Secondly, as I have described, the dwellings in the area are set relatively close together with passageways between them. The gable extensions in these other properties are not nearly as readily discernible from the street as that at the appeal site, lying adjacent to a side road on a corner plot. Thirdly, although the scope may exist for further 'gable extensions' and the like to be carried out under permitted development rights, and acknowledging the appellant's point that there is 'no protection' for the hipped roof form of the dwellings in the area, at the time of my site visit the gable extensions were relatively few in number and insufficient to disturb the overall character of hipped roofs.
13. For these reasons I do not find the alterations to other nearby properties or the availability of permitted development rights to constitute material considerations warranting a decision otherwise than in accordance with the development plan.
14. Letters have been written in support of the development raising matters of appearance and design. Although the proposal has some local support this in itself is not sufficient to justify approving the development. Additionally some correspondents, although not the appellant, suggest that the Council's enforcement action (or complaints leading to it) has been racially motivated. No details to support these serious allegations are given and I do not consider that they raise concerns that could properly affect my decision on this appeal.
15. My duty is to determine the deemed planning application in accordance with the development plan for the area and such other material planning considerations as may bear on the development. That includes having regard to my duty under the Equality Act 2010 (specifically the public sector equality duty requiring consideration of how my decision may affect those with protected characteristics). However nothing in that duty affects my decision in this case.

Conclusion on ground (a) and the deemed planning application

16. For the reasons given I find that the development is contrary to the development plan for the area and no material considerations warrant a decision otherwise than in accordance with it.

The appeal on ground (g)

17. The period stipulated in the notice is three months but the Council concede that the exceptional circumstances of the past year have caused significant changes to normal processes. The Council propose a six month period for compliance and to that extent do not contest the appeal on ground (g). The appellant seeks a 12 month period for compliance.
18. The appellant points out that there is no assurance that current circumstances will be significantly different in six months' time, but does not explain why complying with the notice within six months is unreasonable. Building contractors are able to work, and it is not suggested that a contract could not be placed within the time scale suggested by the Council. The period is not unreasonable and so I shall not exercise my discretion to extend the time limit by any more than the six months the Council suggest.

Conclusion

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation to the time required for compliance and refuse to grant planning permission on the deemed application.

Decision

20. It is directed that the enforcement notice be varied by deleting 'Three' and substituting 'Six' from paragraph 6 of the notice. Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Laura Renaudon

INSPECTOR