



Appeal Decision

Site Visit made on 13 September 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/B0230/D/21/3273102

154 Montrose Avenue, Luton LU3 1HT

- 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 Mohammed Azad against the decision of Luton Borough Council.
 - The application Ref 21/00062/FULHH, dated 18 January 2021, was refused by notice dated 10 March 2021.
 - The development is a two storey side and rear, single storey front and rear extension and 2 no. rear dormers.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. At the time of the site visit I noted that the development has been completed. The application has been submitted retrospectively and I have dealt with the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect of the development upon the character and appearance of the host property and the area; and
 - The effect of the development upon the living conditions of the occupiers of Nos 152 and 156 with regard to outlook.

Reasons

Character and appearance

5. The proposal would in part be for the benefit of the appellant's disabled child who also occupies the appeal property and who requires care and appointments with medical professionals.

6. The appeal property is a semi-detached dwelling located within a predominantly residential area. The host property has been extended to the side, rear and at roof level. Properties in the street have a similar architectural style in the form of two storey semi-detached dwellings, with spacing between them, and terraces. A number of dwellings have been altered providing a degree of variety.
7. Whilst the windows align the development is disproportionately and uncharacteristically large when considering the size of the host property dominating its appearance. The dormer window has increased the bulk of the roof effectively resulting in an appearance similar to that of a three-storey house. This is out of scale and character with the host property and houses in the area.
8. Whilst it is not highly visible from the street the development is clearly noticeable from the rear of neighbouring gardens appearing as an unduly prominent and visually intrusive feature along the back of houses in the road.
9. The appellant has referred to an existing planning permission for extensions to the host property. I accept that there is a fallback position, however, it is incumbent upon me to assess the merits of the development before me. It does not alter my overall conclusion in relation to this issue.
10. I conclude that the development unacceptably harms the character and appearance of the host property and area contrary to Policies LLP1, LLP19 and LLP25 of the Luton Local Plan (2017) (LLP) which, amongst other things, require the scale, mass and layout to be consistent with and proportionate to the principal dwelling and surrounding properties and the enhancement of the distinctiveness and character of the area. It is also contrary to the National Planning Policy Framework (the Framework).

Living conditions of existing occupiers

11. The development extends across the full width of the plot and extends upwards occupying almost the entire roof space and its outer wall forms the flank wall of the property. The overall height and bulk of the development and its position along the boundary results in a sense of enclosure to the occupants of No 156 when outdoors and inside their dwelling. Whilst the upper floors of the development are set away from the boundary with No 152 the overall height and bulk of it results in a sense of enclosure.
12. Overall, the development is a visually intrusive form of development that appears oppressive and overbearing severely diminishing the living conditions of neighbouring occupiers notwithstanding outlook to the street and spacing between properties.
13. The absence of any comments or objection from neighbouring occupants counts neither for nor against the proposal and does not lead me to reach a different conclusion in respect of living conditions.
14. Consequently, the proposed development adversely affects the living conditions of the neighbouring occupants contrary to LLP Policies LLP1, LLP19 and LLP25 which, amongst other things, seek to ensure that extensions do not affect the amenity of nearby occupiers in respect of visual intrusion. It is also contrary to the Framework.

Other Matters

15. As the proposed development is required to assist the family's disabled child, in my assessment of the appeal, I am mindful of the Public Sector Equality Duty arising from Section 149 of the Equalities Act 2010 (the Act). The Act requires me to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Amongst other things, for the purposes of the Act protected characteristics includes disability.
16. I have also paid regard to Article 7 of the United Nations Convention on the Rights of Persons with Disabilities. The Article includes that the best interests of children shall be a primary consideration and seeks to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
17. I have given the family's personal circumstances very careful consideration. Whilst the development offers some benefits to the appellant's family and their disabled child, based on the evidence, dismissing the appeal would not interfere with those rights or interests, since there is no compelling evidence that without the development the family would be unable to care for the child or that access to health services would be compromised. As such, their circumstances do not outweigh the harm that I have identified in relation to the main issues.
18. I acknowledge that the Framework promotes housing for a diverse range of needs including those with disabilities. However, it also recognises that developments should be sympathetic to local character.

Conclusion

19. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR