



Appeal Decision

Site Visit made on 26 October 2021 by Emma Grierson BSc (Hons) MSc MRPTI

Decision by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/B0230/D/21/3276831

135 St Ethelbert Avenue, Luton LU3 1QW

- 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 Mo Khan against the decision of Luton Borough Council.
 - The application Ref 21/00430/FULHH, dated 24 March 2021, was refused by notice dated 24 May 2021.
 - The development proposed is single storey and two storey rear extensions with rear dormer to roof, and outhouse in garden.
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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. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the revised publication. In this respect, I am mindful that neither the appellant nor the Council have made any further submissions regarding the revised Framework. However, in light of this re-consultation, I am satisfied that any references made to the revised Framework within this decision would not be prejudicial to the parties.

Main Issues

4. The main issues in the appeal are:
 - the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area, and
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings in relation to outlook, daylight and noise and the living conditions of occupiers of the host dwelling in relation to garden space.

Reasons for the Recommendation

Character and Appearance

5. The appeal site is occupied by a two-storey end of terrace dwelling with a single storey rear extension and an integral garage. It is located at the end of St Ethelbert Avenue and is to the rear of the dwellings 83, 85 and 87 Culverhouse Road. The site is within a high-density residential setting largely made up of terraced and semi-detached properties. The proposal would extend the single storey rear extension the full width of the property and introduce a first-floor rear extension, a rear box dormer and an outbuilding at the end of the garden.
6. The proposal would be to the rear of the dwelling and therefore would have no impact upon the streetscene. However, the bulky and significant size of the first floor and dormer extensions, along with the unusual dual pitched roof design, would be at odds with the existing size and design of the host dwelling. The size and incongruous design of the resultant dwelling would also be out of keeping with the prevalent character of other properties in the area, which are modestly sized and typical in appearance. This would be to the detriment of the character and appearance of the surrounding area.
7. The proposed use for the outbuilding is a personal gymnasium, which could be considered incidental to the use of the dwelling. However, it would cover a substantially large footprint within the garden when compared to the relatively small size of the appeal site and the existing dwelling. Although it would only be of a single storey, the significant floorspace and proximity to the boundaries of the appeal site would cause the outbuilding to appear as an overly large and dominant addition to this rear garden environment.
8. The Council raise no objections to the impact of the single storey rear extension on the character and appearance of the host dwelling and surrounding area and I find no reason to disagree with this.
9. However, as the proposed first floor extension, dormer and outbuilding would harm the character and appearance of the host dwelling and surrounding area, the proposal would conflict with Policies LLP1, LLP19 and LLP25 of the Luton Local Plan (2017). These policies require development proposals to respond to and enhance local character with high-quality design and a scale and mass which are consistent with and proportionate to the principal dwelling, surrounding properties and the character of the area. The proposal would also be contrary to the design objectives of the National Planning Policy Framework.

Living Conditions

10. The proposed single storey and first floor extension would adjoin the boundary with 133 St Ethelbert Avenue. Although No.133 also has a two-storey projection along this boundary, the proposed extension would have a much greater depth than this neighbouring projection. Due to the height of the two-storey extension and the proximity to the boundary, the proposed extension would have a detrimental impact on the occupiers of No.133 due to a significant reduction in daylight and a sense of enclosure when using the room served by the ground floor rear window closest to this boundary.
11. The proposed first-floor rear extension would also be located on the shared boundary with 83 Culverhouse Road, above the existing single storey

extension. However, the dwelling at No.83 is set back somewhat from this boundary with a large garden area both to the rear and side of the dwelling. Therefore, the proposal would not have a significant impact on the occupiers outlook from this neighbouring dwelling.

12. The proposed outbuilding would be located at the rear of the garden, adjoining the shared boundaries with 85 and 87 Culverhouse Road. It would be some distance from the dwelling at No.85 and, with its modest height of less than 3 metres, would have a limited impact on the outlook from this property. However, the outbuilding would be located close to the rear projection of the dwelling at No.87, which has a window on the rear elevation. The proximity of the outbuilding and its projection above the existing boundary wall would be a prominent addition for the occupiers of No.87 when using the room served by this window, as well as the garden. This would result in a sense of enclosure and harmful loss of outlook for the occupiers of this neighbouring property.
13. Although the outbuilding would be in close proximity to the gardens and dwellings of Nos. 85 and 87, it is not considered that the noise generated from its use would be significantly greater than the use of the land as garden space. As the gym is for use by the occupants of the host dwelling only, the comings and goings would be minimal and the noise of any gym equipment would be contained within the building.
14. Furthermore, although the proposed outbuilding would reduce the garden space available to the occupiers of the host dwelling, No.135, it would still be sufficient in size and in keeping with the size of other gardens within the area, particularly those dwellings on corner plots.
15. Nevertheless, as the proposed development would result in harm to the living conditions of the neighbouring occupiers at 133 St Ethelbert Avenue and 87 Culverhouse Road, it would conflict with Policies LLP1, LLP19 and LLP25 of the Luton Local Plan (2017). These policies seek to ensure that extensions do not adversely affect the amenity of nearby occupiers in respect of visual intrusion and loss of light. It would also be contrary to the National Planning Policy Framework which requires development to have a high standard of amenity for existing users.

Other Matters

16. Although not a specific reason for refusal, the Council indicate in their report that the proposal would increase the number of bedrooms within the property and would not provide sufficient car parking spaces. However, during my site visit it was noted that there was sufficient on-street car parking space in the area and therefore the addition of one bedroom within the loft extension would not have a significant impact on car parking provision in the area.
17. It has been highlighted that the proposed rear dormer could be constructed without express planning permission under permitted development rights. However, the appellant has indicated that this would be with adaptations. Moreover, the dormer only forms part of the development proposed, which falls to be considered as whole..
18. A development of a dormer and a first-floor extension on New Bedford Road have been brought to my attention by the appellant. The design is similar to the proposal before me, however this property appears to be detached and in a

vastly different setting to the appeal site. Therefore this development is not directly comparable to the appeal proposal and sets no precedent. A neighbouring dwelling also has a similar rear dormer to that proposed on the appeal property. However, this neighbouring property does not already have a full width first floor extension as does the appeal property and therefore the cumulative impact is less.

19. The appellants claims that the Council did not contact the appellant during the application process and did not view the appeal property from the rear garden are noted. However, they would not alter the planning merits of the proposal or the conclusions I have reached in the entirely fresh appraisal of all the written evidence.

Conclusion and Recommendation

20. For the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole, and I recommend that the appeal should be dismissed.

Emma Grierson

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

B J Sims

INSPECTOR