

Appeal Decision

Site visit made on 11 January 2022

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 JANUARY 2022

Appeal Ref: APP/B0230/D/21/3285434

3 Cicero Drive, Luton, LU3 4DA

- 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 Alan Gallagher against the decision of Luton Borough Council.
 - The application Ref 21/00853/FULHH, dated 16 June 2021, was refused by notice dated 13 August 2021.
 - The development proposed is a two storey side extension and single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension and single storey rear extension at 3 Cicero Drive, Luton, LU3 4DA in accordance with the terms of the application Ref 21/00853/FULHH, dated 16 June 2021 and in accordance with the following conditions:
 - 1) The development hereby permitted shall begin not later than three 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 used in the existing building;
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plan: LN0274 PL_0-01;

Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal property is a detached two storey dwelling with a single storey attached garage to the side. It is located at the corner of Cicero Drive and Corinium Gardens on a comfortable garden plot.
 4. The appeal property is situated in a residential area, largely characterised by the presence of modern detached and semi-detached two storey dwellings.
 5. Houses in the area tend to be set back from the pavement behind short front gardens and/or parking areas and have larger gardens to the rear. The
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presence of gardens and hedgerows and that of gaps between dwellings and pairs of dwellings, combines to create a significant sense of greenery and spaciousness.

6. Further to the above, the use of common building materials, including similar bricks, tiles and render, combines with the regular set-back of dwellings and the presence of open front garden areas, to afford the area a strong and attractive sense of uniformity.
7. The proposed development would extend the appeal property to the side and rear. It would do so in a manner that would retain the existing gap between the dwelling and its closest neighbour, Number 2 Cicero Drive.
8. The proposal would replace the existing garage with a two storey gable feature. I find that this would add visual interest to the dwelling and as a relatively narrow and modest addition, it would appear subservient to the host property.
9. Notably, this element of the proposal would sit no further forward than the existing ground floor element of the appeal property and as such, it would continue to sit behind and respect the existing build-line in relation to Nos 1 and 2 Cicero Drive.
10. I note earlier that the appeal property sits within a comfortable garden plot and I consider that the proposed development would appear in keeping with the spaciousness of its immediate and wider setting.
11. In the above regard, Nos 1 and 2 Cicero Drive form a pair of semi-detached dwellings and as such, have a different built-form to the appeal property. Consequently, the prevailing pattern of development in respect of this run of three dwellings is not one where houses are identical. However, the proposed development respects those distinctive elements of uniformity shared by the three dwellings, including common materials, the established set-backs, open front garden areas and tiled porch roofs, and would appear in keeping with its surroundings.
12. Taking all of the above into account, I find that the proposal would not harm the character and appearance of the area and would not be contrary to the National Planning Policy Framework or to Local Plan¹ Policies LLP1, LLP19 and LLP25 which together amongst other things, seek to protect local character.

Conditions

13. I have considered the conditions suggested by the Council against the tests set out in Paragraph 55 of the Framework. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition controlling external surfaces is necessary in the interests of local character.
14. Whilst the Council suggested a condition limiting the use of the dwelling to that of a single family dwelling house as specified within planning use class C3, there is no substantive evidence before me to demonstrate that such an approach would meet the tests set out in Paragraph 55 of the Framework. In this regard, I am mindful that there is nothing to demonstrate that the Council's proposal

¹ Ref: Luton Local Plan 2011-2031 (2017).

would ensure that the development “continues to meet the need for larger family housing.” In this regard, I am also mindful that the proposal adds living space and as such, it serves to provide a larger family house.

15. Also, the Council suggested a condition in respect of windows and openings. However, this appears so confusing as to make little sense. It is worded in a way that suggests that the permission limits all windows and openings to obscure glazing at a fixed height, which it does not; and it refers to approved “windows openings” and to preventing such things on an elevation where no windows and openings are proposed. The proposed condition does not meet the tests set out in Paragraph 55 of the Framework.

Conclusion

16. For the reasons given above, the appeal is successful.

N McGurk

INSPECTOR