
Appeal Decision

Site visit made on 29 March 2022

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th April 2022

Appeal Ref: APP/B0230/D/22/3292647

9 Finsbury Road, Luton LU4 9AH

- 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 Mian Rehmat against the decision of Luton Council.
 - The application Ref 21/01602/FULHH, dated 16 November 2021, was refused by notice dated 12 January 2022.
 - The development proposed is erection of an outbuilding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed outbuilding on:
 - (i) the character and appearance of the area; and
 - (ii) the living conditions of the neighbouring properties with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site forms part of the garden area at the rear of a detached bungalow. It is located in a mature well-established residential area with a mixture of properties of varied styles and character set back from the road behind front gardens/driveways. The proposal would involve the construction of a detached outbuilding set back from the main dwelling with a rendered finish and a shallow dual pitched tiled hipped roof.
4. To the south, east and west of the appeal site are the long garden areas and the outbuildings associated with the adjacent properties. Where outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying open character and appearance, which is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens.
5. The appeal site is in a relatively large plot and as such the proposed development would not appear overlarge, relative to the overall plot size. The scale and form of the proposed single storey building would nevertheless still

be a significant addition in this location. Such positioning would compromise the sense of space and openness and interrupt the established grain and pattern of development in the area.

6. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed outbuilding on the street scene. In any case, the site is viewed from the rear of the surrounding properties. As such, I consider the proposed outbuilding, by virtue of its scale, siting and layout would result in an incongruous and out-of-keeping addition that would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
7. I have considered the appellant's arguments that the design and layout of the proposed outbuilding has been carefully considered and redesigned in order to take into account the pre-application advice of the Council and to minimise any impacts on the area. However, whilst the use of materials, fenestrations and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
8. Consequently, I conclude that the proposed outbuilding would result in harm to the character and appearance of the area. It would be contrary to the overall aims of Policies LLP1, LLP19 and LLP25 of the Luton Local Plan 2017 (LP) which, amongst other things, require development proposals to be of a high quality design that improve or enhance the distinctiveness and character of the area. In addition, the proposal would not accord with the National Planning Policy Framework (the Framework) that developments should seek to secure a high quality of design (paragraph 126) that are sympathetic to the local character (paragraph 130).

Living conditions of the occupiers of the neighbouring properties

9. The proposed outbuilding would be set back a short distance from the common shared boundaries with the adjacent properties at Nos. 7 and 11 Finsbury Road (Nos. 7 and 11). It would be located immediately adjacent to the rear gardens at Nos. 7 and 11 and would be separated from the appeal site by a high close boarded fence running along the common shared boundaries. The adjacent properties at Nos. 7 and 11 are set down at a slightly lower level due to the topography of the site and the surroundings and currently has largely uninterrupted views over the open garden areas at the rear of the appeal site and the neighbouring properties that provide space and light between the properties.
10. Given the overall scale, siting and design of the proposed outbuilding, site levels and the separation distance between the properties, I consider that the proposed outbuilding would impact on the views currently enjoyed by the occupiers of the neighbouring properties. The occupants of Nos. 7 and 11 would use the rear garden areas to carry out leisure and household activities when relaxing and sitting out, particularly during the summer months.
11. The proposed outbuilding would introduce a dominant and overbearing structure in close proximity to the shared common side boundaries that would restrict the outlook from the garden areas at the rear of Nos. 7 and 11. I therefore consider that the proposal would result in a poor quality living environment and an unacceptable change in the living conditions for the occupiers of the neighbouring properties.

12. I have considered the appellant's arguments that the design and layout of the proposed outbuilding has been carefully considered and redesigned in order to minimise any impacts on occupiers of the adjacent properties. Whilst the shallow pitched hipped roof design and the boundary treatment would reduce the impact of the proposal to some degree, these aspects do not overcome the adverse effects outlined above.
13. Consequently, I conclude that the proposed outbuilding would result in unacceptable harm to the living conditions of the occupiers of the neighbouring properties with particular regard to outlook. It would be contrary to Policies LLP1, LLP19 and LLP25 of the LP which seek, amongst other things, to ensure that development creates quality places that do not adversely affect the amenity of nearby occupiers. In addition, it would not accord with the Framework that development should seek to create places that promote health and well-being, with a high standard of amenity for existing and future users (paragraph 130).

Other Matters

14. I note the arguments between the main parties on whether the proposed outbuilding, by virtue of its size and scale, would be reasonably required to serve a purpose incidental to the enjoyment of the main dwelling house. I note that the appellant indicates that the proposed outbuilding would be used for domestic storage purposes. However, in light of my findings on the main issues above, it is not considered necessary to look at these matters in detail, given that the proposal is unacceptable for other reasons.
15. I have considered the appellant's arguments regarding the type of outbuildings that can be built with a dwelling house using permitted development rights. Whilst this may be so, this does not set a precedent for such an inappropriate development in this location for the reasons set out above.
16. I note the other developments drawn to my attention by the appellant. However, the proposed outbuilding at the rear of No. 9 Belgrave Road relates to a different scale and form of development. The various outbuildings and other structures behind the residential properties within the surrounding area have different development characteristics to the appeal scheme. In any event, each proposal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other cases.
17. I note the appellant's willingness to carry out further work to safeguard the amenities of the occupiers of the neighbouring properties and protect the character of the area. However, in the absence of any detailed information to inform what this further work and measures might be, I can only judge this case based on the evidence provided and my observations from my site visit. In any event, I am required to consider the proposal on the basis of the same details that were before the Council when it made its decision.
18. I have considered the issues raised by the appellant regarding the pre-application advice of the Council and the way in which the application was processed by the Council. However, these are material considerations to which I can attach only limited weight in making this decision.
19. I note the appellant's comments regarding the various benefits arising from the proposal including the scheme's high quality design and to create an additional

domestic storage building to meet the needs of the appellant. While I have given them some weight, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR