
Appeal Decision

Site visit made on 16 August 2022

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/B2030/D/22/3299604

54 Ludlow Avenue, Luton LU1 3RW

- 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 & Mrs P. Halsey against the decision of Luton Council.
 - The application Ref 22/00225/FULHH, dated 23 February 2022, was refused by notice dated 20 April 2022.
 - The development is carport (retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision letter describes the carport as retrospective. It is clear from the evidence provided and my site visit that the carport had been erected at the rear of the site. I shall determine the appeal on this basis accordingly.

Main Issues

3. The main issues are the effect of the development on:
 - (i) the character and appearance of the area, and
 - (ii) the living conditions of the occupiers of the neighbouring properties at Nos. 31, 33, 37, 52 and 56 Ludlow Avenue with particular regard to light, outlook and potential rainwater runoff.

Reasons

Character and appearance of the area

4. The appeal property at No. 54 Ludlow Avenue (No. 54) comprises of a large detached two storey extended property with a single storey swimming pool building and outbuildings at the rear on a relatively spacious corner plot.
5. The appeal site is located in a mature well-established residential area, characterised by predominantly detached properties of varied styles and character set back from the road within large spacious landscaped plots. 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. No. 54 being situated on a corner plot has more expansive grounds, which add to the open character and

appearance of the street scene, which is further enhanced by presence of the mature landscaping and established trees within the surrounding gardens and the roadside grass verges adjacent to the site.

6. There is an extensive planning history on the appeal site. The development comprises of a detached carport with three open parking bays set back from the public highway behind a high boundary fence and gate positioned across the access to the carport at the rear of the site. It has a timber external finish with a pitched tiled hipped roof with a ridgeline measuring about 4m in height.
7. Although the carport does not appear overlarge, relative to the overall plot size, the building nevertheless still represents a significant addition in this location. Although set back, the overall scale and form of the carport, combined with the bulkiness of the hipped tiled roof over the building, is out of character with the generally more modest garage and outbuildings found in the area and compromises the sense of space and openness in the area.
8. These shortcomings are exacerbated by the carport's position, which is visible from a number of public vantage points along Ludlow Avenue and at the rear from the surrounding properties. I therefore consider that the carport, by virtue of its scale, siting and design, fails to promote or reinforce the distinctive characteristics of the area and adversely harms rather than positively contributes to the character and appearance of the area.
9. I have considered the appellants arguments that the scale and design of the carport is in keeping with the other buildings in the area and has been carefully designed in order to minimise any impacts on adjacent dwellings and the area. Whilst I accept that the development does result in the loss of an open landscaped amenity area and the use of matching materials and the boundary treatment assists in integrating the development with the area, these aspects do not overcome the adverse effects outlined above.
10. Consequently, I conclude that the development has a harmful effect on the character and appearance of the area. It is contrary to the overall aims of Policies LLP1 and LLP25 of the Luton Local Plan 2017 (LP) which, amongst other things, require development to be of a high quality design that improves or enhances the distinctiveness and character of the area. In addition, the development does 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 neighbouring properties

11. The carport is located adjacent to the residential properties at Nos. 52 and 56 Ludlow Avenue (Nos. 52 and 56) and is set back from the neighbouring dwellings at Nos. 31, 33 and 37 Ludlow Avenue (Nos. 31, 33 and 37) on the opposite side of the road.
12. The rear elevation of the carport is located immediately adjacent to the rear garden at No. 52 to the south-west of the site. The carport is inset from and projects about 9.1m along the common shared boundary with No. 52 and is separated from the rooms and garden at the rear of No. 52 by a high close boarded fence running between the properties.
13. The side elevation of the carport is located immediately adjacent to the two storey property at No. 56 to the south-east of the site. The carport is inset

from the common shared boundary with No. 56 and is separated from the side elevation of No. 56 by a high close boarded fence and pedestrian accessway running between the properties.

14. Given the overall design and layout of the carport, together with the boundary treatment, roadside street trees and the separation distance between the properties, I consider that the carport does not significantly dominate the views to cause an unacceptable loss of outlook from the windows and gardens at the front of Nos. 31, 33 and 37.
15. Whilst I accept that there is some impact from the development, given the overall design and layout of the carport together with the boundary treatment and the orientation of the properties, I consider that the carport does not result in a significant loss of available light and overshadowing to the main habitable rooms and garden at the rear of No. 52. In addition, given the inset from the common shared boundaries with Nos. 52 and 56, I consider that the carport does not result in significant potential rainwater runoff to the neighbouring properties at Nos. 52 and 56. However, these are not determinative factors on their own.
16. The carport results in a long single storey projection running parallel with the common shared boundary and the garden area at the rear of No. 52. The occupants of No. 52 use this area to carry out leisure and household activities when relaxing and sitting out, particularly during the summer months. The side elevation of the carport is situated in close proximity to a ground floor habitable room window on the side elevation of No. 56.
17. Given the overall scale, height and siting of the carport and the separation distance between the properties, I consider that the carport introduces a dominant and enclosing structure in close proximity to the common shared boundary and the rear garden area at No. 52 and to a more limited extent the ground floor habitable room window on the side elevation of No. 56. This, in my view, dominates the views to cause an overbearing effect and an unacceptable loss of outlook for the occupiers of Nos. 52 and 56. I therefore consider that the development results in a poor quality living environment and an unacceptable change in the living conditions for the occupiers of the neighbouring properties.
18. Consequently, I conclude that the carport results in unacceptable harm to the living conditions of the occupiers of the neighbouring properties at Nos. 52 and 56 Ludlow Avenue with particular regard to outlook. It is contrary to Policies LLP1 and LLP25 of the LP which, amongst other things, requires development of a high quality design that create quality places and sustainable development. In addition, it does 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

19. I have noted the other developments in the area drawn to my attention by the appellants. However, the existing garages, extensions and outbuildings relate to a different scale and form of development with different locational characteristics to the appeal scheme. On the basis of the limited evidence provided I am not convinced that the circumstances are compellingly similar to the appeal scheme. As a consequence, whilst I have taken these other

examples into account, they do not materially alter my conclusions on the appeal scheme.

20. I have considered the appellants arguments regarding the scale of the outbuildings that can be built within the garden area of a dwellinghouse under General 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.
21. I have considered the appellants statement on the fall-back position on the appeal site and the appellants options to build a carport with a lower roof height on the site using permitted development rights. Based on the evidence before me, there is a reasonable likelihood that such a carport with a lower roof height could be built if this appeal is dismissed. Be that as it may, in my view, the scale and form of such a development would not be as substantial as the development now before me and would have more limited impact on the character and appearance of the area and the living conditions of the neighbouring properties. I therefore accord these matters moderate weight in making this decision.
22. I have considered the appellants comments regarding the scale, siting, design and the poor condition of the previous garage structure on the site and its impact on the area. Whilst this maybe so, this does not preclude the proper planning assessment of the impact of the proposal on the character and appearance of the area and the living conditions of the occupiers of the neighbouring properties and is not a determinative factor on its own.
23. The appellants consider the development constitutes a sustainable form of development in line with the requirements of the Framework. I have considered the various benefits put forward by the appellants that the development brings including the scheme's high quality design, removal of the previous garage structure and providing additional parking facilities to meet the needs of the appellants. 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

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

David Troy

INSPECTOR