



Appeal Decision

Site visit made on 9 August 2022 by Darren Ellis MPlan

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2022

Appeal Ref: APP/B0230/D/22/3290032

60 Gatehill Gardens, Luton LU3 4EZ

- 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 Nitul & Shima Pancholi against the decision of Luton Borough Council.
 - The application Ref 21/01128/FULHH, dated 9 August 2021, was refused by notice dated 11 October 2021.
 - The development proposed is a loft conversion, single storey side extension and partial garage conversion.
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Decision

1. The appeal is dismissed insofar as it relates to the rear dormer, single-storey side extension and the alterations to the garage. The appeal is allowed and planning permission is granted for a front dormer at 60 Gatehill Gardens, Luton LU3 4EZ in accordance with the terms of the application 21/01128/FULHH, dated 9 August 2021, insofar as it relates to the front dormer and subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, insofar as they relate to the front dormer only: Site Location Plan drawing no. D107_A_100 Revision P01; Floor & Roof Plans as Proposed drawing no. D107_A_103 Revision P05; Elevations & Sections as Proposed drawing no. D107_A_104 Revision P05.
 - 3) 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.

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 Matter

3. The appellant has stated the rear dormer could be constructed without express planning permission, falling as it would under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, whether or not the dormer window is permitted
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development is not for me to consider in the context of an appeal made under s78 of the above Act. I have therefore dealt with the appeal on the basis of the plans submitted.

Main Issues

4. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of neighbouring occupiers.

Reasons for the Recommendation

Character and Appearance

5. The street is characterised by detached properties, some of which have been extended. There is some variation in design although there are common features shared by the majority of the properties such as front gables and gable roofs. The properties are finished in similar exterior materials. The consistent appearance of the properties forms a distinct rhythm and pattern which contributes positively to the character and appearance of the area.
6. The side extension and alterations to the garage would have a large flat roof which would be visible from the street. This roof form would not be consistent with the appeal property and would thus be at odds with the quality of the street scene's consistency, where the roofs to the properties and side extensions are pitched.
7. The proposed rear dormer would span almost all of the width of the dwelling, would have a flat roof, and would be set just under the ridge of the original roof. Owing to its size, form and scale it would dominate the form and appearance of the original roof. It would be visible from the street, and as it would not be proportionate to or reflect the form of the main roof it would detract from the appearance and character of the appeal property and the area. The modest scale, central position and pitched roof form of the proposed front dormer would complement the original property and would not detract from the street scene.
8. My attention has been drawn to two previous planning permissions for a loft conversion with front dormer at No 2 Gatehill Gardens¹ and for extensions including front and rear dormer windows to facilitate a loft conversion at No 23 Gatehill Gardens². Both applications originally included a large flat-roof rear dormer similar to the rear dormer before me.
9. The approved plans for the permission at No 2 had removed the rear dormer as it fell under permitted development, and the rear dormer was subsequently not included in the planning permission. Although the rear dormer at No 23 was included in the planning permission, the officer's report states that the rear dormer constituted permitted development and subsequently no assessment of it was made. The appeal scheme differs from these examples as the Council did not state whether or not the rear dormer met the requirements of permitted development, and as such the dormer was subject to a full assessment against the development plan and its context. As such, the previous permissions at Nos 2 and 23 do not justify the proposed rear dormer.

¹ Planning application ref. 18/01063/FULHH

² Planning application ref. 19/01343/FULHH

10. For these reasons, the proposed side extension, alterations to the garage and rear dormer would cause significant harm to the character and appearance of the area and would therefore be contrary to Policies LLP1, LLP19 and LLP25 of the Luton Local Plan (November 2017) (LP). These policies all require, amongst other things, for development to respond positively to and enhance local character, and for extensions to be consistent and proportionate to the dwelling and that the roof style is in keeping with the original roof. There would also be conflict with the National Planning Policy Framework (the Framework), which requires, amongst other things, development to add to the overall quality of the area and to be sympathetic to local character.
11. However, and as I have also explained, the proposed front dormer would not cause any harm to the character and appearance of the area. The front dormer would therefore comply with to LP Policies LLP1, LLP19 and LLP25, insofar as they relate to character and appearance, and with the design aims of the Framework.

Living Conditions

12. The appeal property is at an angle to the adjacent dwelling at No 59. As such, the proposed rear dormer would be adjacent to the side elevation of No 59 at its closest point. There is a small first-floor window and a side entrance door on the side elevation of No 59 and, given the separation to this elevation and as the rear dormer would not be any closer to the boundary than the existing property, it would not have any significant impact on the side window or door.
13. As a result of the angle of the appeal property, the rear dormer would get progressively further from the rear garden of No 59. While the scale of the dormer would effectively add a third storey to the appeal property, the separation between it and the rear garden at No 59 would prevent it from having a harmful visual impact on the rear garden at No 59. The dormer would be a significant distance from any other nearby property and as such would not have any meaningful visual impact on any other neighbouring property.
14. The Council has raised no objections regarding the effect of the single storey extension and garage alterations on the living conditions of the occupiers of neighbouring properties. Based on the evidence before me I have no reason to disagree. The proposal would not therefore harm the living conditions of the occupiers of neighbouring properties. As such the proposal would comply with LP Policies LLP1, LLP19 and LLP25. These policies all require, amongst other things, for development to not adversely affect the amenity of nearby occupiers, including with regards to visual intrusion. The proposal would also be in compliance with paragraph 130(f) of the Framework which requires development to have a high standard of amenity for existing and future users.

Other Matters

15. The submitted drawings show that the existing solar panels would be repositioned onto the top of the proposed dormer so that they would project above the ridgeline. However, the appellants state that the panels shown on the plans are indicative only as they intend to install panels that are integrated into the dormer and do not project from it. Since I am recommending that the rear dormer would be harmful and thus part of the scheme that should be dismissed, the positioning of the solar panels has not been determinative. I have not therefore considered this matter further.

Conditions

16. I recommend the standard time limit condition and one specifying the approved plans to provide certainty and in the interests of proper planning. A condition requiring the external materials of the extension to match the materials of the existing property is necessary in the interests of the character and appearance of the property and surrounding area.
17. The Council has suggested conditions which would restrict the installation of windows in the side elevation and to prevent the dwelling from being used for any other purpose than a dwelling. However, under permitted development any side window at an upper level would need to be obscure glazed, and moreover the existing boundary treatments would prevent views of neighbouring properties from any new side window at the ground floor level. Furthermore, no evidence has been submitted to suggest that the property would be used as anything other than a dwelling. Such conditions are not therefore necessary to protect the living conditions of occupiers of neighbouring properties or to enable the Council to exercise control over the development proposed.

Conclusion

18. The lack of harm that has been identified in regard to the second main issue would be a neutral matter which, accordingly, would be incapable of weighing against harm. In the case of the rear dormer, side extension and garage alterations, there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan and I recommend therefore the appeal should be dismissed in that regard. For the reasons I have set out, the front dormer would comply with the development plan and thus I recommend it should be allowed in that regard. Subject to the conditions set out.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report, and I agree with the recommendation that a split decision should be issued in the terms that have been set out in the report.

John Morrison

INSPECTOR