



---

## Appeal Decision

Site visit made on 21 February 2023

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> March 2023**

---

**Appeal Ref: APP/B0230/D/22/3308559**

**2 Alisworth Road, Luton LU3 2UG**

- 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 M A Qayum against the decision of Luton Borough Council.
  - The application Ref 22/00778/FULHH, dated 18 June 2022, was refused by notice dated 8 September 2022.
  - The development is the erection of front, side and rear extensions and PD dormer.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of front, side and rear extensions and PD dormer at 2 Alisworth Road, Luton LU3 2UG in accordance with the terms of the application, Ref 22/00778/FULHH, dated 18 June 2022, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 6614-002; 6614-03; 6614-10 and 6614-11.

### Procedural Matter

2. The description of development includes the rear dormer extension which the appellant claims was erected as permitted development.

### Main Issue

3. It is considered that the main issue is the effect of the development on the character and appearance of the host property and streetscene.

### Reasons

4. The appeal property is an altered detached dwelling located within a primarily residential area which includes a mix of 2 and 3-storey detached, semi-detached and terraced dwellings. Most of these dwellings possess brick walls and tiled roofs but there is some use of render and hanging tiles. Some of the dwellings have been extended, including significant alterations at 54 Swansdale Road, which adjoins the property, and 11 Alisworth Road.
5. Planning permission was granted by the Council for the erection of 2-storey side and rear extensions and single storey front and rear extensions (Ref 19/00893/FULHH). The alterations undertaken to the property do not fully comply with this permission and the scheme as now built is the subject of this appeal. However, the planning permission is a material consideration which is

given significant weight in the determination of this appeal, particularly in respect of the scale, mass, layout and roof style.

6. With the exception of the rear roof dormer, the scale of the alterations made to the property reflect those of the planning permission. The modest increase in the width of the property is not particularly noticeable and does not detract from the streetscene by reason of creating an unacceptable terracing effect or the loss of an important gap between the property and the neighbouring dwelling. In terms of its scale, ridge height and setting back of the first floor elevation, the 2-storey side extension appears a proportionate and ancillary addition to the property when viewed from the road.
7. There are design differences between the front elevations of the approved and appeal schemes which includes a larger pitched roof above the ground floor extension, the fenestration at first floor level and the erection of rooflights within the main roofslope. Although a larger roof, the scale and design of the single storey front extension is consistent with, and proportionate, to the host dwelling and the side extension.
8. The height of the first floor windows are less than those of the ground floor windows and surrounding dwellings. However, these openings do not materially detract from the character and appearance of the property's front elevation and its contribution to the streetscene. In any event, changes to the fenestration, including the choice of materials for the frames and the front door, could be made without the need for planning permission. The rooflights can be erected as permitted development but, in any event, they do not alter the property's contribution to the character and appearance of the streetscene.
9. The variations between the approved and appeal schemes at the rear are primarily a larger pitched roof above the ground floor extension, the fenestration at first floor level, including the absence of a balcony, and the erection of the rear dormer. As with the front elevation, the scale and design of the single storey extension with its larger roof is consistent with, and proportionate to, the size of the host dwelling and side extension. The change from a balcony to a window at first floor level does not materially affect the character and appearance of the resulting property when compared to the approved scheme. Further, the first floor openings do not materially detract from the character and appearance of the property when viewed from surrounding gardens.
10. Although included as part of the description of development, because of its scale and siting the rear dormer is claimed to have been erected as permitted development. As part of the appeal scheme, the dormer has been assessed as being permitted development rather than requiring planning permission. Solar PV panels have been added to the dormer's flat roof and the appellant acknowledges that they require planning permission. As shown on the drawings and observed during the site visit, the panels partly project above the property's roof ridgeline and can be seen from the road. However, being able to see a small part of the panels above the roof's ridge is not, on its own, a reason for this appeal to fail because they do not materially alter the character and appearance of the residential streetscene.
11. The resulting property has a contemporary appearance with rendered white walls and grey window frames. These external materials are inconsistent with the dominance of brick walls and white uPVC window frames of other dwellings

within the surrounding area. The white walls do increase the visual prominence of the enlarged property within the streetscene.

12. However, and taking into account what could be erected as the fallback position pursuant to the planning permission and permitted development, the resulting property is generally in keeping with the overall form and layout of the surrounding residential area, including the other identified dwellings which have been significantly altered, albeit with an innovative contemporary design and appearance because of the rendered walls and grey window frames. It is not such a discordant feature in the streetscene to represent a poorly designed development which should be refused permission as identified in the National Planning Policy Framework (the Framework).
13. An outbuilding has been erected within the rear garden as permitted development with an overall height below 3 metres. However, because the property's footprint has been modestly increased it is necessary to assess whether there has been an overdevelopment of the plot. By reason of the size of the curtilage and the extent of the retained rear amenity space, the enlarged property and the outbuilding do not cumulatively represent either an overdevelopment of the plot or an over intensive form of development.
14. A claim is made by the Council that allowing this appeal would establish an undesirable precedent for other proposals. There are specific planning circumstances which apply to the appeal scheme and, as such, an unwelcome precedent would not be established.
15. Although the external materials of the property do not comprise those which are dominant within the surrounding area, this is a case where the high quality development sought by Policy LLP25 of the Luton Local Plan (LP) and the design requirements of LP Policy LLP19 for residential extensions have been generally met. Accordingly, it is concluded that the development does not cause unacceptable harm to the character and appearance of the host property and the streetscene and, as such, does not conflict with LP Policies LLP1, LLP19 and LLP25.

### **Conditions**

16. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the tests in the Framework and the Planning Practice Guidance. A condition to require that the development accords with the approved drawings is necessary for reasons of clarity and are those which solar PV panels on the rear dormer extension's roof. The drawings provided do not include No. 6614-10A but No. 6614-10. The outbuilding drawing is not required because the building was erected as permitted development.
17. Insufficient justification exists to impose a condition which precludes the erection of further outbuildings within the property's extensive curtilage. Further, because the outbuilding has been erected as permitted development, its use is already limited to purposes incidental to the enjoyment of the property. Accordingly, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR