

Appeal Decision

Site visit made on 27 February 2023

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2023

Appeal Ref: APP/B0230/D/22/3313469

58 Catesby Green, Luton, LU3 4DR

- 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 Ms Judith Song against the decision of Luton Borough Council.
 - The application Ref 22/00997/FULHH, dated 18 August 2022, was refused by notice dated 29 November 2022.
 - The development proposed is the erection of a single storey front/side and two storey rear extension and alterations to fenestration after demolition of conservatory.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. Firstly, the effect of the proposed rear extension on the character and appearance of the host dwelling and the surrounding area; secondly, the effect of the proposed rear extension on the living conditions of occupiers of 57 and 59 Catesby Green with respect to outlook and light; and thirdly, the effect of the proposed extensions on the visual amenity, ecology and biodiversity of the area.

Reasons

3. Catesby Green is a cul-de-sac of modern dwellings including detached and terraced houses. The appeal dwelling is a detached house set between No 59, a similar property, and No 57, an end terraced house. The Council raises no objection to the proposed single storey front/side extension and I agree this would be acceptable. I shall therefore restrict my further consideration to the two storey rear extension.
 4. The proposed extension would replace an existing conservatory. It would span the full width of the rear elevation and project some 4.4m at ground floor and 3.8m at first floor. It would have pitched, hipped roofs, set down from the existing ridge and over the projecting single storey element. The extension would not be visible from the street to the front of the dwelling but the first floor and roof would be visible across the rear garden of No 59.
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5. Although the extension would occupy the full width of the dwelling, neither its projection from the rear elevation nor its height would be excessive. Whilst hipped roofs are not characteristic of Catesby Green I consider that the proposed roof would help ensure that the extension remained subservient to the main dwelling and would not appear out of place. Moreover, although partially visible from the street, the extension would not appear incongruous in the context of the varied design of surrounding dwellings.
6. The Council is concerned that a Lawful Development Certificate (LDC) for an almost full width rear dormer has been granted and that scheme might be implemented together with the proposed rear extension. I have no details of the LDC scheme but the roof design of the proposed two storey extension would appear to limit options for a rear dormer. Moreover, the dormer would be permitted development. The possibility of such rights being exercised in addition to other development is thus commonplace and would not normally amount to a justification to reject a scheme requiring express permission.
7. It is concluded on the first main issue that the proposed rear extension would have no materially detrimental effect on the character or appearance of the host dwelling or the surrounding area. In consequence, it would comply with Policies LLP1, LLP19 and LLP25 of the Local Luton Plan 2011-2031 (LLP), 2017, and with the National Planning Policy Framework (NPPF). Taken together these expect extensions to dwellings to be of a high quality design, such that they are consistent with and proportionate to the principal dwelling, surrounding properties, streetscape and the character of the area. In particular, the roof style and pitch should be in keeping with the original roof and any innovative design elements should be in keeping with the design and character of the host dwelling and surrounding buildings.
8. Turning to living conditions, the appeal dwelling and its neighbours have south facing rear gardens. No 59 occupies a corner plot with an open aspect to the west. Its rear elevation is set back further than the appeal dwelling and it has a large single storey rear extension. Taking these matters into account, the proposed rear extension would have no materially harmful effect on outlook or light at No 59.
9. No 57 lies to the east of the appeal dwelling and its rear elevation is set some 2.3m north of that at the appeal dwelling. It is un-extended at the rear. The addition of the proposed two storey extension would result in a side wall some 6m deep projecting behind the rear elevation and windows in No 57. This would noticeably limit the field of view and have a materially harmful effect on outlook, resulting in an overbearing effect. Moreover, there would be a clear loss of afternoon and evening sunlight, resulting in increased overshadowing of the rear of the property, including the area immediately behind the dwelling most likely to be used for sitting out.
10. The appellant has provided sun shadow evidence which, it is argued, demonstrates that increased shading would be minimal. However, the analysis is based on the sun's path in mid-summer and at about 3 p.m. This therefore represents a best-case scenario. Shading would be significantly worse later in the day and at other times of the year.

11. It is concluded on the second main issue that whilst the proposed rear extension would have no significant effect on living conditions at No 59, it would have a materially harmful effect on the living conditions of occupiers at 57 Catesby Green with respect to outlook and sunlight. In consequence it would conflict with LLP Policies LLP1, LLP19 and LLP25 and the NPPF. Taken together these expect extensions to dwellings to be of a high quality design such that they provide a high standard of amenity for existing and future users and in particular do not adversely affect the amenity of nearby occupiers with respect to visual intrusion or loss of light.
12. The Council's decision notice sets out a third reason for refusal relating to loss of a grassed area to the front of the site, resulting in harm to visual amenity, ecology and biodiversity. However, the delegated report makes clear that the Council does not object to the single storey front extension. I agree that there would be no material harm to visual amenity, ecology or biodiversity arising from the front/side extension and consequent loss of a small, mainly gravelled and heavily shaded area to the front/side of the dwelling. I therefore find no conflict with relevant LLP Policies or with the NPPF in respect of this issue.
13. Although I find no harm to character or appearance or to the ecology or biodiversity of the area, this would not alter or outweigh the material harm to the living conditions of occupiers of No 57. Therefore, for the reasons set out above and having regard to all other matters raised, including the concerns of third parties relating to access to the rear of properties and noise and disturbance from traffic and construction during building works, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR