



Appeal Decision

Site visit made on 15 March 2023

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 MARCH 2023

Appeal Ref: APP/B0230/C/21/3277286

Land at 124 Limbury Road, Luton, Bedfordshire LU3 2PN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Khan against an enforcement notice issued by Luton Borough Council.
 - The notice was issued on 14 May 2021.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a single storey wooden extension to the rear of the dwelling on the land, in the approximate position shown edged blue on the plan attached to the notice ('the wooden extension').
 - The requirements of the notice are: (i) Demolish the wooden extension and remove it from the land. (ii) Remove all associated building materials and rubble and waste materials arising from compliance with step (i) from the land.
 - The period for compliance with the requirement is five months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (c) appeal

2. The ground of appeal is that the matter alleged in the enforcement notice does not constitute a breach of planning control. It is for the appellant to show why their appeal should succeed on this ground, the relevant test of the evidence being on the balance of probability.
3. The appeal property contains a two storey, end of terrace dwelling. The dwelling has previously been enlarged at the rear at single storey level.
4. A single storey extension has been erected on the rear of the previous enlargement. Erecting the extension has involved undertaking building operations and therefore amounts to 'development' as defined in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to s57(1) of the Act.
5. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) at Article 3, Schedule 2, Part 1, Class A, grants planning permission for the enlargement, improvement or other alteration of a dwelling where the relevant size and locational limitations in

paragraphs A.1 and A.2 are complied with, and where the relevant conditions in paragraphs A.3 and A.4 are also complied with.

6. The extension protrudes up to around 4 m from the rear wall of the previous enlargement. As a result, the extension exceeds the limit of 3 m beyond the rear wall of the original dwelling for a single storey rear extension to a terraced property, at paragraph A.1(f)(i). The overall depth of the extension might not exceed the 6 m limit at paragraph A.1(g)(i). However, the condition in paragraph A.4 applies to development which would exceed the limits in paragraph A.1(f) but is allowed by paragraph A.1(g). This condition requires that before development is begun notification including a description of the proposed works is given to the Council, and; that works must not begin until either the Council have given notice that prior approval is not required, the giving of prior approval or where no such notification has been received, after the end of the 42-day period following submission of the notification to the Council. No notification was given to the Council following the procedure set out in paragraph A.4. Therefore, the extension cannot comply with the limitation at paragraph A.1(g)(i) or the condition in paragraph A.4.
7. The condition in paragraph A.3(a) requires the external materials of the extension to be similar in appearance to those of the existing dwelling. According to the Government's Technical Guidance¹, this is so that any works to enlarge, alter or improve a dwelling result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those of an existing dwelling but does not mean that they need to be the same materials. The external walls of an extension should be constructed of materials that provide a similar visual appearance, for example in terms of the colour and style of brick used, to the materials used in the walls of an existing dwelling.
8. The external walls of the extension are finished in reconstituted timber boards, painted a dark grey colour. The coldly uniform, drab colour finish together with the lightweight, insubstantial feel of the timber boards bears little resemblance to and is in complete contrast with the external wall materials of the existing dwelling. The timber boards differ significantly in appearance from and do not sit well alongside the warmer, red shades of the bricks in the walls of the existing dwelling. Also, the boards do not have any of the granular texturing and more robust qualities of the bricks or provide the sense of visual relief in the light coloured mortar jointing. Nor do they have any resemblance to the black and white finishes of the half-timbered upper walls of the existing dwelling. The external materials thus have an entirely different visual appearance to and are not in sympathy with the external materials of the existing dwelling, failing to minimise the visual impact of the extension and not complying with the condition in paragraph A.3(a).
9. There is no dispute that the other limitations and conditions in Class A, where relevant, were complied with. In my own assessment, I found no sound reason to conclude otherwise. Nevertheless, development that does not comply with the relevant limitations and conditions in Class A is without planning permission. Development cannot be brought within the limitations and conditions of Class A retrospectively. No grant of express planning permission for the extension following the submission of a planning application was drawn

¹ Permitted development rights for householders: Technical Guidance, MHCLG 2019.

to my attention. At s171A(1)(a), the Act defines a breach of planning control as carrying out development without the required planning permission.

10. Therefore, the appellant has been unable to show that the extension does not constitute a breach of planning control. The ground (c) appeal fails.

Ground (a) appeal

Main Issue

11. The main issue in this ground of appeal is the effect of the extension on the character and appearance of the dwelling and the surrounding area.

Reasons

Character and appearance

12. The dwelling is located in an established residential area. The dwelling's half-timbered elevations, bay front, steeply pitched hipped and gabled roof and prominent chimney, together with the traditional wall and roof materials, all evoke aspects of the Tudor revival style common in the early part of the 20th Century. A number of properties in the environs are similar in terms of their age, architectural style and external materials, being neatly arranged in terraces or pairs. Like the dwelling, adjoining properties occupy ample plots with good sized gardens, whilst the public realm includes street trees and communal open space. These factors contribute significantly to the cohesive and pleasantly spacious suburban character and appearance of the locality.
13. The extension is an addition to the dwelling of significant overall depth, both individually and in accumulation with the previous rear enlargement. Also, being positioned at an acute angle in relation to the rear elevation of the dwelling the extension has an irregular footprint and built form, with a flat roof. These factors contribute to the extension having a considerable scale, with an awkwardly shaped, box-like profile and an appreciably horizontal emphasis, none of which sits easily alongside the period design details and more vertical proportions of the dwelling and adjacent properties. The failure of the extension to integrate with the dwelling and surrounding development is emphasised by the dark grey timber external walls, which neither respect nor reflect the external wall materials of the dwelling or those of other properties in the locality. As a result, the extension appears as a substantial and unsympathetic later addition.
14. Furthermore, given that the dwelling has previously been enlarged at the rear, the overall footprint and volume of the extension has led to a significant erosion in open space in the rear garden. A greater portion of rear garden is covered by, or adjacent to, substantial built form following erection of the extension. This has contributed to an appreciably more built-up feel compared to the open and spacious qualities of adjacent rear gardens and fails to respect or reflect the suburban qualities of the locality.
15. Due to the above factors, the extension is not in keeping with the dwelling and it is entirely at odds with the prevailing pattern of local development, being viewed as an obvious and alien feature in the environs. Cladding the external walls in brick slips with pointed joints and replacing the fascia would only partly address the visual harm arising from the overall size, design and external materials of the extension.

16. Therefore, the extension causes unacceptable harm to the character and appearance of the dwelling and its surroundings. Being of a scale, design and external materials that are not consistent with and proportionate to the principal dwelling, surrounding properties and the character of the area, the extension fails to accord with criterion in Policy LLP19 of the Luton Local Plan (LP). The extension also fails to accord with LP Policy LLP25, as it is not of a high quality design which enhances the distinctiveness and character of the area and does not respond positively to the site and building context, form, scale, pattern, materials and distinctiveness. Additionally, by not according with other LP policies or contributing to enhancing a sense of place and by not preserving the character of the area, the extension fails to accord with LP Policy LLP1. Furthermore, by not achieving a well-designed place the extension is inconsistent with the National Planning Policy Framework.

Other Matters

17. I acknowledge that the extension provides much-needed domestic storage space. However, this can only be afforded limited weight.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Hawkins

INSPECTOR