



Appeal Decision

Site visit made on 4 April 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/B0230/W/22/3302725

18 Union Street, Luton LU1 3AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr K Syed against the decision of Luton Borough Council.
 - The application Ref 22/00483/FUL, dated 20 April 2022, was refused by notice dated 23 June 2022.
 - The development proposed is described as the "increase in height of rear of car repairs/MOT unit."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council referred to Policy LLP19 of the Luton Local Plan 2011-2031 Adopted 2017 (LP) within their reason for refusal. The Council have since confirmed that this policy was referred to in error. In view of this, I have not had regard to Policy LLP19 of the LP within my decision.
3. In confirming the above, the Council has referred me to additional policies which it considered relevant to the appeal proposal. These are Policies LLP14, LLP31 and LLP32 of the LP. Whilst these were referenced in the delegated report, they were not included in its decision notice. I have sought the comments of the appellant in respect of these policies. No additional comments from the appellant relating to these policies have been submitted.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of no. 20 Union Street, with particular regard to outlook.

Reasons

5. The site comprises a building used for car repairs and MOTs, which has a rectangular footprint and pitched roof. The side elevation of the building is located within close proximity to the rear elevations of nos. 14, 16, 18 and 20 Union Street. The roof of the main building is orientated so that it pitches away from the rear elevations of nos. 14, 16, 18 and 20. There is a lean-to section at the end of the main building, which has a shallow mono-pitched roof at a lower height than the main building.
6. No. 20 Union Street is a two storey, residential property. It has a first floor bedroom window on its rear elevation. This window faces directly towards the

lean-to section of the main building. Having regard to the height, orientation and shallow pitch of the mono-pitched roof, the occupiers of no. 20 are afforded some outlook from the bedroom window as a result of the existing layout.

7. It is proposed to replace the mono-pitched roof with a pitched roof. The orientation of the pitched roof would mirror that of the roof serving the main building. This would result in the proposed roof pitching away from the rear elevation of no. 20. The height of the proposed roof, whilst lower than the roof of the main building, would be higher than the existing mono-pitched roof. The proposed roof would extend the full width of the lean-to.
8. The proposed roof, due to its greater height and width, its orientation with the ridgeline extending the full span of the lean-to and close proximity to the rear of no. 20, would result in a visually intrusive form of development that would reduce the outlook from the first floor bedroom window serving no. 20.
9. The appellant contends that the development is required in support of an existing business. I understand that cars cannot be raised high enough within the existing building in order to allow repairs and MOTs to be carried out. I observed during my site visit that the internal ramp cannot fully extend due to the height of the existing roof. The appellant has stated that the current economic climate of high bills and increased costs would be offset if the current proposal is approved. I understand that the proposed development would increase revenue and employment. However, there is limited evidence before me which demonstrates the extent of revenue and employment that would be created as a result of the proposal. Whilst these are all matters that weigh in favour of the proposal, I do not consider they are sufficient to overcome the harm I have identified to the living conditions of the occupiers of no. 20.
10. For the above reasons, the proposed increase in height of rear of car repairs/MOT unit would have a harmful effect on the living conditions of the occupiers of no. 20 Union Street, with regards to outlook. Accordingly, it would conflict with Policies LLP1, LLP14 and LLP25 of the LP and the National Planning Policy Framework, which collectively seek, amongst other things, to ensure a presumption in favour of sustainable development, that extensions do not have unacceptable amenity implications, that backland development be avoided where it would give rise to adverse amenity and a high standard of amenity for existing users is achieved.
11. Additional correspondence from the Council stated that Policies LLP31 and LLP32 of the LP should have been referred to in the reason for refusal. These policies seek, amongst other things, to ensure development supports the sustainable transport strategy and manages parking provision. As these policies do not refer to living conditions, they are not determinative to this matter.

Other Matters

12. The appellant states that the proposed development will not look out of character, is not out of scale or design and is proportionate. The appellant also contends that the increased height of the roof will have no adverse lighting effect on the surrounding sites. The Council raised no concerns in relation to these matters and I see no reason to disagree. However, the absence of identified harm is a neutral consideration in my determination.

13. I note the appellant suggests the proposal would contribute to the supply of homes. However, no new residential property is proposed, and this does not therefore count in favour of the proposal.

Conclusion

14. For the above reasons, the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR