



Appeal Decision

Site visit made on 4 October 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/B0230/D/23/3325865

51 Bracklesham Gardens, Luton LU2 8QJ

- 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 Harpreet Singh against the decision of Luton Borough Council.
 - The application Ref 23/00281/FULHH, dated 10 March 2023, was refused by notice dated 18 May 2023.
 - The development is described as “retrospective planning permission for the retention of gate.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form. The Council has used an alternative wording on the decision notice, but there is no evidence to demonstrate that this has been agreed between parties. Based on the evidence before me, the proposal would be more accurately described as the erection of a metal roller shutter, and I have dealt with the appeal on that basis.
3. The photographs contained within the appellant’s statement indicate that the development was in situ at one point. However, when I visited the site, I saw that the shutter had been removed and there was a metal frame in roughly the same position, with feather boarding in filling the gap between, built at the same height as the boundary wall. I have no information on why these changes have taken place, or whether they have permission, but in any event, I have determined the appeal on the basis of the proposals shown on the submitted plans.

Main Issue

4. The main issue is the effect of the proposed metal roller shutter on the character and appearance of the host property and surrounding area.

Reasons

5. No 51 Bracklesham Gardens is an end terraced 2-storey dwelling set within a residential area. To the side of the dwelling is a vehicular access driveway leading to a private garage court at the rear. The proposed metal shutter would be erected on the boundary between this garage court and the rear garden of No 51, facilitating access between the two.

6. The garages are flat roofed and of the same height as the existing boundary walls surrounding the rear garden of the appeal property and No 49 Bracklesham Gardens, which is situated on the opposite side of the access driveway to the garage court. The proposed metal shutter would be noticeably taller than the existing boundary walls and garages. Due to the width of the driveway and the height of the proposed shutter, the development would be visible in public views from Bracklesham Gardens and beyond and, also from surrounding dwellings.
7. The design and materials of the roller shutter would give the structure a commercial or industrial appearance. The structure would be a prominent and discordant feature, out of character with the host dwelling and surrounding residential properties.
8. Whilst the adjoining garages have roller shutter doors, they are of lower height and do not have large visible roller shutter boxes unlike the proposal. Also, the existing garage shutter doors are painted, whereas the proposed shutter would have an unpainted metal finish. The shutter would not therefore be comparable to the existing garage shutter doors in terms of design and appearance. The painting of the roller shutter, which could be secured by condition, would not overcome the visual harm caused by its incongruous scale and design.
9. A condition to alter the height and design of the roller shutter would not be reasonable, as this would result in a materially different proposal, which would not have been considered by interested parties.
10. I conclude that the proposed metal roller shutter would be harmful to the character and appearance of the host property and surrounding area, in conflict with Policies LLP1, LLP19 and LLP25 of the Local Luton Plan 2011-2031 and Section 12 of the National Planning Policy Framework. These require, amongst other matters, that new development should respect or enhance the character of a local area and existing development.

Other Matters

11. The appellant notes that the proposal would not have an adverse impact on the living conditions of the occupiers of nearby dwellings. Whilst this is not disputed by the Council, the absence of harm is a neutral factor in the planning balance. The privacy of neighbouring occupiers could be maintained by a different boundary treatment that is of a scale and design more in keeping with that found in the local area, similar to that which already surrounds the remainder of the rear garden of the property.
12. The appellant has noted that the appeal property is neither listed nor within a conservation area. However, the policy requirement for high quality design exists regardless of whether or not the site is affected by a heritage designation.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

C Billings
INSPECTOR