
Appeal Decision

Site visit made on 20 February 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 6th March 2024

Appeal Ref: APP/B0230/W/23/3329245

33 Black Swan Lane, Luton LU3 2LU

- 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 Harwinder Singh (Hsingh Properties Limited) against the decision of Luton Borough Council.
 - The application Ref 22/01575/FULL, dated 5 December 2022, was refused by notice dated 10 March 2023.
 - The development proposed is the erection of a single storey side extension and first floor rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The amendments of the National Planning Policy Framework (the Framework) were published in December 2023. These amendments do not alter the basis upon which this appeal has been assessed.

Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the streetscene and (b) the living conditions of the occupiers of neighbouring properties.

Reasons

Character and Appearance

4. The appeal property is a 2-storey building, which forms part of a terrace of 3 properties, located within a primarily residential area comprising a mix of dwelling types and sizes. The property is located at the junction of Black Swan Lane and Runfold Avenue and has commercial uses at ground floor level with a flat above. The property has been extended at ground floor level and this addition occupies a substantial proportion of the curtilage and, as a consequence, there is an extensive flank wall sited adjacent to the footway along Runfold Avenue.
5. The proposed development includes 2 elements. The first element is a single storey side extension which would have the effect of extending forward the front elevation of the ground floor addition. This extension would reduce the size of the display window facing towards Runfold Avenue and increase the length of the addition's flank wall. Although the flank would be extended,

within the context of the existing length of this side elevation and what is seen from the adjoining roads, the size and massing of this element of the appeal scheme would have a neutral effect on the character and appearance of the streetscene retaining a clear differentiation between the original 2-storey property and the enlarged addition.

6. The second element of the appeal scheme is a first floor rear extension which would be sited above part of the addition and because of its elevated siting this first floor extension would be highly conspicuous from both Black Swan Lane and Runfold Avenue.
7. By reason of its design, including the crown roof, the proposed first floor extension would be poorly related to the form and design of the existing property. When viewed along Runfold Avenue, there would be an awkward juxtaposition between the existing hipped roof and the proposed crown roof of the extension which would also have a materially lower ridge height.
8. Further, and as identified by the Council, the siting of the proposed extension would result in its side elevation being forward of the front elevations of the properties fronting Runfold Avenue. This siting, together with its scale, would result in this element of the appeal scheme being a visually and physically incongruous and conspicuous form of development within the streetscene. This unacceptable harm would outweigh the neutral effect of the proposed side extension on the character and appearance of the streetscene.
9. Reference has been made by the appellant to another scheme which the Council permitted at a property sited at a road junction. However, the full planning circumstances of this other scheme have not been provided and, in any event, the proposed development has been assessed on its own circumstances.
10. On this issue it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the streetscene and, as such, it would conflict with Policies LPP19 and LPP25 of the Luton Local Plan (LP). Amongst other matters, these policies promote high quality design which responds positively to the streetscene and for the scale and design of residential extensions to be consistent with, and proportionate to, the principal dwelling. LP Policy LLP1 is generic policy concerning sustainable development rather than including specific criteria for assessing the appeal scheme.

Living Conditions

11. There is an access to the first floor flat from Runfold Avenue and this route includes walking across the flat roof of a single storey addition. This roof is also used as an amenity area by the occupiers of the flat which the appellant identifies was approved by an Inspector when determining a previous appeal (Ref APP/B0230/A/11/2156741). Although the appeal decision has not been adduced, the Council has not disputed the appellant's claim.
12. The proposed first floor extension would reduce the extent of the external amenity area used by the occupiers of the flat. There would, instead, be a kitchen window that would face towards the side elevation of 1 Runfold Avenue. However, there is a further opening proposed within the extension's side elevation which could function as the main window and, in such circumstances, the rear window and door could be required to be obscurely

glazed secured by a condition. Accordingly, there would be no material loss of privacy to the occupiers of No. 1 by reason of overlooking from the first floor proposed extension.

13. There are habitable room windows within the rear elevation of 31 Black Swan Lane and the outlook from these openings at ground floor level is already visually and physically dominated by the existing addition's flank wall.
14. The proposed first floor extension would be set back from the shared boundary with No. 31 by around 2 metres. Although sited away from the shared boundary, the erection of the proposed first floor extension would increase the sense of enclosure for the occupiers of No. 31 and would also have an adverse effect on the outlook from the first floor windows of this neighbouring property.
15. Although there would be no material loss of privacy to the occupiers of No. 1 this matter is demonstrably and significantly outweighed by the unacceptable harm caused to the sense of enclosure and loss of outlook which would be caused to the occupiers of No.31. Whether an extension might be erected to the rear of No. 29 at a future date does not alter the assessment which has been undertaken.
16. For the reasons given, it is concluded that the proposed development would cause unacceptable harm to the living conditions of the occupiers of neighbouring properties and, as such, it would conflict with LP Policy LLP19 concerning residential extensions not adversely affecting the amenity of nearby occupiers. LP Policy LLP25 does not include specific reference to living conditions in the context of the proposed development.
17. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR