



Appeal Decision

Site visit made on 20 June 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2024

Appeal Ref: APP/B0230/D/24/3342018

49A Rosslyn Crescent, Luton LU3 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Naveed Ahmad against the decision of Luton Borough Council.
 - The application Ref is 23/01301/FULHH.
 - The development is erection of a first floor rear extension and addition of windows to the property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (2023) (the Framework). The consultation and draft Framework do not constitute Government policy or guidance. However, they are capable of being material considerations in appeals. Notwithstanding this, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of the consultation.
3. The description of development was changed by the Council, notwithstanding this I find that the description of development omitted the insertion of a window in the existing property at first floor. As the submitted plans clearly denote the insertion of this window, I will have regard to this during my consider of the appeal, as such I have revised the description of development accordingly.

Main Issues

4. Whilst the Council have raised concern with regard to the use of the proposed development as an independent dwelling, the proposal before me is a residential extension to an existing property. The potential use of the proposed development as an independent residential dwelling would be the subject of a separate application.
5. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of occupiers of neighbouring properties.

Reasons

Character & Appearance

6. The site is a detached two storey property within a predominantly residential area. During my site visit I observed that a substantial single storey rear extension was in the process of being erected at the appeal site. I understand from the Council's Report of the Case Officer that this has been carried out under permitted development rights and extends 8m from the rear of the property.
7. The design of the proposed first floor extension would be bulky and stark creating a disproportionate addition to the existing property. Whilst views from the streetscene would be limited the development would be dominant and incongruous. I conclude that the proposed development would harm the character and appearance of the area.
8. There is conflict with Policies LLP1, LLP19 and LLP25 of the Local Luton Plan 2011-2031 (2017) (the Local Plan) which seeks amongst other things to ensure developments are high quality design, preserving or improving the character of an area, and that an extension is of ancillary scale to the original building.
9. There is conflict with the Framework which seeks amongst other things to ensure developments are of good design appropriate and sympathetic to their surroundings.

Living Conditions

10. There is a degree of separation between the proposed development and the adjacent semi-detached properties, No's 47 and 49. I observed during my site visit that a large building is being erected between the appeal site and No. 47.
11. Notwithstanding this the increase in size of the existing property which creates a dominant form would be oppressive to the occupiers of No. 47. I find that the proposed development would harm the living conditions of No. 47 Rosslyn Crescent.
12. The decision notice references in reason for refusal No. 2 that the proposed development would harm No. 47 Rosslyn Crescent in terms of loss of outlook. This contrasts with the Council's Report of the Case Officer which confirms in the 'Conclusions and Recommendations' that the proposal would result in loss of outlook due to the depth of the proposal and its proximity to the rear aspects of No. 49 Rosslyn Crescent.
13. Due to the excessive scale and design of the proposed development along with the relationship of proposal to the neighbouring properties I find that the proposed development would harm the living conditions of No. 49 Rosslyn Crescent, similar to the harm found to No. 47. As I have already concluded harm to the living conditions of occupiers of No. 47 no party would be prejudiced or caused any injustice by me proceeding with the appeal and also finding harm to No. 49.
14. Windows are proposed on the side elevation at first floor to serve bedrooms, these would face towards the adjacent properties. These windows would exacerbate overlooking of the private amenity space of the neighbouring properties. Whilst the Council considers that a condition could be imposed to

ensure that these windows were obscure glazed and top opening to limit any overlooking and loss of privacy, I disagree. The window facing No. 49 would be the only window in the bedroom, whilst obscurely glazing the window would mitigate overlooking, I am not persuaded that this would provide future users of that bedroom with an adequate outlook.

15. I conclude that the proposed development would harm the living conditions of occupiers of neighbouring properties.
16. There is conflict with Policies LLP1, LLP19 and LLP25 of the Local Plan which seek amongst other things for developments to create quality places which respond positively to the surrounding context and do not adversely affect the amenity of nearby occupiers.
17. There is conflict with the Framework which seeks to ensure developments have high standards of amenity for existing and future users.

Conclusion

18. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR