



Appeal Decision

Site visit made on 23 October 2024

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2024

Appeal Ref: APP/B0230/D/24/3347396
17 Denbigh Road, Luton LU3 1NR

- 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 Saeed Ahmed against the decision of Luton Borough Council.
 - The application Ref is 24/00379/FULHH.
 - The development proposed is erection of first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would have an adverse impact on:
 - the character and appearance of the host dwelling and the surroundings on Denbigh Road;
 - the amenities of the Denbigh Primary School as a result of overlooking, loss of privacy and related safeguarding issues.

Reasons

Character and Appearance

3. The appeal property is a detached two storey house on the west side of Denbigh Road linked to its neighbour to the north (No 19) by a double garage. The house is adjacent to Denbigh Primary School which wraps around the property to its south and west sides. The school carpark is bounded by the gable end of No 17 and outbuildings in its garden which sit at a higher level to the school as the land falls to the west.
4. The appeal property has already been extended significantly with front and side extensions and a full width, single storey, rear extension together with linked outbuildings running along the entire length of the southern boundary to the plot. The appeal proposal would extend the rear single storey extension at first floor over the same footprint.
5. I have been referred to another similar development at No 14 Wychwood Avenue which the appellant considers justifies allowing this appeal. However, I am not satisfied that the circumstances are that similar. There the houses and plots are larger and there appears to be greater separation distances involved between neighbouring properties than in Denbigh Road. Accordingly, I have determined the appeal case on its own merits.

6. The proposed first floor extension would extend the whole width of the main house and to the same depth as the ground floor extension (4.8 metres). It is designed with a double hipped roof allowing the roof to be set down below the ridge on the main house which it has been put to me would help to reduce the mass and height at roof level.
7. Notwithstanding this, the impact of the proposal must be considered with the extensions and development that have already taken place at this property. Already almost two thirds of this plot is built over. The scale of this latest proposal in conjunction with the other front, side and rear extensions and large attached outbuilding would result in disproportionate extensions given the scale of the original dwelling. The proposed extension would, cumulatively, result in overdevelopment of the plot adversely affecting the character and appearance of the host dwelling and its surroundings.
8. I have been invited to conclude that the extension because of the hipped roof and matching materials would not be dominant in views north on Denbigh Road where it would be partially screened by the school buildings and boundary landscaping. However, the depth of the extension would be over half the depth of the main house and the resulting large mass of brickwork extending the south-facing gable at height to about 13 metres in total depth would be highly intrusive in views from Denbigh Road around the junction with Beaumont Road. The appearance of the extended building would be out of scale with the lower level, mainly single storey school buildings south of the property.
9. The proposal would therefore be in conflict with Policies LLP25 and LLP19 of the *Luton Local Plan* (LLP). These require developments to achieve a high standard of design in the case of the LLP 25 and, specifically in the case of extensions, requires the scale, mass and design to be consistent with and proportionate to the principal building and its context and that extensions should be of an ancillary scale to the original. For the reasons above the proposed extension, cumulatively with existing extensions, would fail this test.

Amenities of neighbouring occupiers

10. The appeal property has 3 first floor windows to its rear facing towards the school approximately 22 metres from the school building according to the appellant's statement. There is therefore already the potential for overlooking both from the appeal property and other facing windows in neighbouring properties. Whilst on site I took the opportunity to view the school from the current windows in No 17 and the positioning of the proposed extension from the school at both ground and upper levels.
11. The proposed extension would result in the rear windows in No 17 being closer by 4.8 metres as stated on the floorplan which would reduce the separation distance well below the normal standard of 21 metres between facing windows. I acknowledge that the proposal would not involve any additional windows as the extension would simply enlarge the floor area of the existing rooms and, as bedrooms, the rooms would typically be less likely to be occupied during the hours in which the school is in use.
12. Notwithstanding that, there would be an increase in the perceived level of overlooking as a result of the extension. The *National Planning Policy Framework* (the Framework) at Paragraph 135 regarding design states that decisions should ensure a high standard of amenity for existing and future users. Policy LLP19 of

the Local Plan reflects this in requiring that proposed extensions do not adversely affect the amenity of nearby occupiers including as a result of overlooking. I acknowledge that the effect of the extension in this respect would not be substantially adverse and, had it been the only harm it would probably have been insufficient to justify dismissing the appeal. However, in combination with the cumulative adverse effect of the extension on character and appearance the harm as a result of the appeal proposal would be increased.

Other Matters

13. The full width first floor extension would be immediately adjacent to the plot boundary and rear patio and sitting out area for No 19 on its southern side and there would therefore be likely to be an impact in terms of loss of sunlight particularly in the winter when the sun is lower in the sky. It has been put to me that the first floor extension would not result in any significant increase in height but, according to the proposed elevations, the difference in height over the existing ground floor extension would be a range of 4-5 metres to the ridge of the first floor extension. Even allowing for the fact that the roof is sloping away from the boundary, the height and proximity of the extension would be overbearing viewed from No 19's patio. The fact that the house itself at No 19 is separated from No 17 by a garage would be irrelevant as the garden and patio to No 17 extends across the rear of the garage.
14. Even if I was to accept the Council's conclusion that there would be no impact in respect of the living conditions of the neighbouring occupants at No 19 this would not bring me to any different conclusion on the appeal given the other harms already identified above.
15. I have had regard to the Public Sector Equality Duty contained in the Equality Act 2010 and understand the appellant's wish to enlarge and improve the accommodation in the property and make sustainable and effective use of it as a family home, an objective which is encouraged by the Framework. However, although the Framework encourages the efficient use of land at section 11 it states in paragraph 128 that development should take into account the desirability of maintaining an area's prevailing character and setting and at Paragraph 135 that development should not have a detrimental effect on the amenity of existing users of land. The proposal in respect of the rear first floor extension and its cumulative impact on character and appearance would fail in this regard.

Conclusion

16. Accordingly, as set out above, the appeal proposal would have a cumulative detrimental impact on the character and appearance of both the house and the surrounding area as well as on the amenities for staff and pupils of the school and for the reasons given above, I conclude that the appeal should be dismissed.

P. D. Biggers

INSPECTOR