



Appeal Decision

Site visit made on 18 November 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/B0230/W/24/3349050

13 Lime Avenue, Luton LU4 0EG

- 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 Mohammed Abbas Akbar against the decision of the Council of the Borough of Luton.
 - The application Ref is 24/00507/FUL.
 - The development proposed is a two storey side extension to form a three bed house with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension to form a three bed house with associated parking and landscaping at 13 Lime Avenue, Luton LU4 0EG in accordance with the terms of the application, Ref 24/00507/FUL, subject to the conditions on the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, including protected trees.

Reasons

Character and appearance

3. The properties along this stretch of Lime Avenue are fairly diverse in terms of their form and appearance, and include detached and semi-detached two storey houses and bungalows. They are set back along one side of the road, typically behind small gardens or hard surfaced forecourts, which are largely open to the highway. A long row of mature Lime trees, which are protected by a Tree Preservation Order, give the road a distinctive and verdant character and, together with the buildings' siting and the plots' open frontages, provides a sense of cohesion to the streetscene.
4. The host comprises a detached bungalow with a gable and a large flat-roofed single storey extension which cuts into one side. It sits on the corner with Seabrook, amongst a short row of bungalows from Nos 11 to 17 (odds) Lime Avenue. Compared to the host, No 11, on the opposite side of Seabrook, is smaller scale and its form is less truncated. Those differences, along with tall boundary walls and fences, and a significant gap between them, ensure that Nos 11 and 13 are not read as a balanced pair in the Lime Avenue streetscene.

5. The proposed two storey side extension would be set back in line with the host relative to Lime Avenue, and whilst it would project closer to Seabrook than the existing side extension, it would still be set in from the tall wall on the side boundary. Consequently, it would not appear cramped on the plot; it would broadly respect the spatial pattern of development in the area; and it would not significantly diminish any sense of openness.
6. Given the diverse streetscene, the resultant building's semi-detached form, with single and two storey elements and front gables, would not appear out of place. The use of matching brickwork and tiles would also help to assimilate the extension with the host property and the area. In reaching that conclusion, I note that the layout and form of this scheme would be virtually identical to an application which was granted planning permission nearby at the corner of Seabrook and Imberfield (Ref: 22/01504/FUL).
7. Although much of the front of the site would be hard surfaced to provide parking, it would be alleviated by the retained trees, and by strips of shrubbery in raised beds. Moreover, I observed that many nearby properties on Lime Avenue are also hard surfaced and have similarly open frontages.
8. Turning to the impact on protected trees, there is a large Lime to the front of the host, which is identified as T1 in the Arboricultural Impact Assessment by Trevor Heaps Arboricultural Consultancy Limited ('the AIA'). However, the front part of the proposed dwelling would be largely over the footprint of the existing side extension, and based on the AIA, it would result in only a 2% incursion into T1's root protection area ('RPA'). I have no cogent reason to disagree with the findings in the AIA that if its methodology is followed, the tree will not be adversely affected.
9. The proposed new driveway, dropped kerb, and parking areas would be constructed within the RPAs of T1 and T2, which is another pollarded Lime located in the front corner of 15 Lime Avenue. However, the Tree Protection Plan at Appendix 9 of the AIA shows that, to avoid damage during construction, protective fencing would be erected around the trees' stems; heavy duty ground protection would be laid; and construction and storage exclusion zones would be provided. Moreover, new surfaces would be of permeable gravel laid into gravel boards, using a 'no dig' methodology.
10. For all these reasons, subject to suitable planning conditions, I am satisfied that the protected trees, which make such a significant contribution to the area's distinctive character, would not be harmed.
11. The scheme would not harm the character and appearance of the area. It would not therefore conflict with those parts of Local Luton Plan 2011- 2031 (2017) Policies LLP1 and LLP25 which require high quality design, that responds to, and enhances, local character and the streetscene, having regard to matters such as natural features and landscaping, and the form, scale, height, and pattern of development. Neither would it conflict with the National Planning Policy Framework ('Framework') stance on high quality design.

Other matters

12. I have no evidence that there is a particular surface water flood risk in the area. Given that the parking area would be constructed with permeable gravel, subject to appropriate details being agreed, it would not have a significant

impact on the local surface water drainage regime. Based on those materials, and the other available evidence, I am not persuaded that this small area would compromise water quality as a result of polluted run-off.

13. As protected trees would be retained, and both properties would be set well back from the road, with reasonably spacious rear gardens, the scheme would not harmfully affect the health and well-being of the borough's residents. Notwithstanding the large car parking area, cycle storage to provide sustainable transport options could be secured by a planning condition.
14. The scheme would not therefore conflict with those parts of Local Luton Plan Policies LLP1, LLP25, LLP31, LLP36 and LLP38 which seek to create healthy places and communities; provide sustainable transport choices; ensure that the quality of the local environment is not compromised; and provide satisfactory surface water disposal having regard to flood risk and water quality.
15. Finally, with reference to a representation by an interested party, the safe disposal of asbestos is addressed by other legislation.

Conditions and Conclusion

16. I have considered the Council's suggested conditions against the tests in the Framework, making minor adjustments in the interests of clarity and precision. As well as the standard time limit, in the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans.
17. The application form states that the extension's walls and roof would be faced in materials to match the host. In the interests of good design, I have therefore imposed a matching materials condition, rather than the suggested condition requiring the submission and approval of materials. For a similar reason, the Council's suggested condition requiring the implementation of the depicted hard and soft landscaping works is also necessary.
18. My condition numbers 5 and 6 are necessary in the interests of good design and to ensure appropriate living conditions. Condition number 7 is imposed in the interests of the safety and convenience of highway users.
19. Based on drawing no. TH/A3/4486/TPP, the proposed parking area would be surfaced with gravel. However, I have limited details before me, and in the interests of the character of the area, and of ensuring appropriate surface water drainage, my condition number 8 is necessary.
20. Condition number 9 is necessary to accord with the stance in Local Luton Plan Policies LLP31 and LLP32 regarding the provision of sustainable transport choices, including cycle storage. However, as I have not been directed to any policy or guidance requiring the provision of electric vehicle charging points, I have not imposed that suggested condition.
21. The AIA, including the Tree Protection Plan, detail how trees will be protected during the course of the development. Consequently, rather than the Council's suggested condition, in the interests of the character and appearance of the area, my condition number 10 requires that the development be carried out in accordance with it.

22. Finally, whilst some waste management measures are set out in the Site Waste Management Plan, in the interests of highway safety and protecting nearby occupiers' living conditions, the development shall be carried out in accordance with a Construction Method Statement, with the details to be agreed between the principal parties.
23. The Council's suggested condition number 7 would require that windows in the scheme's western elevation are obscurely glazed and partially fixed, and would remove permitted development rights for additional openings in that elevation. However, as that elevation faces the highway with a significant gap to the house at No 11, that suggested condition is not necessary to protect those occupiers' living conditions.
24. The Council has not provided justification for its suggested condition removing permitted development rights for extensions and other buildings. Given the reasonable size of the resultant plots, and having regard to the advice in the Planning Practice Guidance at ID: 21a-017-20190723, such a condition is unnecessary, and I have not imposed it. Similarly, having regard to the Town and Country Planning (Use Classes) Order 1987 (as amended) I have been provided with no evidence to support restricting the property's use to Class C3 only, nor any indication as to what purpose such a restriction would serve. I have not therefore imposed that suggested condition.
25. Given the size of the parking areas, and the presence of a wide pavement, I am not persuaded that a condition requiring pedestrian visibility splays either side of the access is necessary. In any event, on the basis of the available evidence, their provision may conflict with the protected trees. I have not therefore imposed that suggested condition.
26. For the above reasons, I conclude that the scheme would not harm the character and appearance of the area. Consequently, having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A101, A102, A201, A202, A205, A501, and TH/A3/4486/TPP.
- 3) The materials to be used in the construction of the external surfaces of the development shall match those used in the existing building.
- 4) Hard and soft landscape works shall be carried out in accordance with the approved details as indicated on plan nos. A501 and TH/A3/4486/TPP. The works shall be carried out prior to the occupation of the development, and shall be retained thereafter.
- 5) Prior to the first occupation of the development, details of proposed boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented prior to the occupation of the development, and shall be retained thereafter.
- 6) Prior to the first occupation of the development, a scheme for the storage of waste/recycling for the existing and approved dwellings shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be installed prior to the occupation of the development, and shall be retained thereafter.
- 7) Prior to the first occupation of the development, car parking for the existing and approved dwellings shall be laid out and made ready for use in accordance with the details on plan nos. A501 and TH/A3/4486/TPP, and shall be retained thereafter.
- 8) Before any above ground works commence, details of the surfacing and drainage of the parking areas hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the occupation of the development, and shall be retained thereafter.
- 9) Prior to the first occupation of the development, details of cycle storage shall be submitted to, and approved in writing by, the Local Planning Authority. The cycle storage shall be constructed in accordance with the approved details before the development is occupied, and shall be retained thereafter.
- 10) The construction of the development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment by Trevor Heaps Arboricultural Consultancy Limited, including its Arboricultural method statement and tree protection plan no. TH/A3/4486/TPP.
- 11) No above ground works shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.