



Appeal Decision

Site visit made on 11 August 2025

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Appeal Ref: APP/B0230/D/25/3368186

7 Gardenia Avenue, Luton LU3 2NP

- 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 Nigel Cherrill against the decision of Luton Borough Council.
 - The application Ref is 25/00438/FULHH.
 - The development proposed is for a single storey rear extension including 4no Velux sky lights.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension including 4no Velux sky lights at 7 Gardenia Avenue, Luton LU3 2NP in accordance with the terms of the application, Ref 25/00438/FULHH, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 01.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) Notwithstanding the provisions of Section 55 of the Town and Country Planning Act 1990 or of the Town and Country Planning (General Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no window openings shall be fitted in the north-eastern flank elevation of the extension hereby permitted.

Main Issue

2. The main issue is the effect of the appeal proposal upon the living conditions of the occupiers of 7a Gardenia Avenue, in respect of outlook and light.

Reasons

3. 7a Gardenia Avenue is a new end of terrace dwelling located against the north-eastern flank of the appeal dwelling, 7 Gardenia Avenue. No 7a has a two storey rear outrigger and a single storey flat roof extension with a lightwell adjacent to the shared boundary which provides natural light to, and outlook from a kitchen window, permitted as a result of a non-material amendment to the original grant of planning permission (18/01236/FUL).

4. During my site visit I had an opportunity to view the appeal site from said kitchen window, construction of the proposed extension had commenced including the majority of the north eastern wall, bar one course of blockwork.
5. Due to the proposed extension being southwest of the neighbouring kitchen window, a degree of overshadowing occurs, and the outlook therefrom has been curtailed due to the presence of the blockwork wall. Having said that, a view of the sky from the neighbouring kitchen window would still be apparent, and a degree of borrowed light to the kitchen area is also received from the French doors at the rear of the single storey rear extension on No 7a.
6. Having regard to the fact that a close boarded fence is present along the shared boundary and also to the flat roofed design of the proposed extension, on balance, I consider that the proposal would not give rise to a demonstrable loss of outlook, daylight or sunlight. Therefore, I consider that the living conditions of the occupants of 7a Gardenia Avenue would be protected, subject to the imposition of the planning conditions listed above. I find that the proposal complies with Policy LLP19 of the Luton Local Plan (2017) which requires that proposed extensions do not adversely affect the amenity of nearby occupiers in respect of visual intrusion, loss of light, loss of privacy and/or overlooking.

Conclusion and Conditions

7. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should succeed.
8. As the development has commenced it is not necessary to impose the standard time limit condition, however the Council has also suggested that conditions requiring that the proposed development be carried out in accordance with the approved plans and that the materials employed in the construction of the extension match the existing dwelling; I consider these appropriate in the interests of protecting the character and appearance of the area. Furthermore, the Council has also recommended that a condition be imposed preventing any windows from being constructed on the north east flank elevation of the extension, in order to safeguard the amenities of 7a Gardenia Avenue. Whilst not explicit in the purported reason, I consider that this would ensure that no overlooking and subsequent loss of privacy would be incurred.

C J Tivey

INSPECTOR