
Appeal Decision

Site visit made on 14 February 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 20 February 2017

Appeal Ref: APP/B0230/W/16/3161572
11-15 Waldeck Road, Luton LU1 1HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Ahmed against the decision of Luton Council.
 - The application Ref 16/01233/OUT, dated 10 July 2016, was refused by notice dated 20 September 2016.
 - The development proposed is demolition of existing outbuildings and construction of new shops and dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all detailed matters reserved. I have dealt with the appeal on that basis, treating the plans as illustrative only.

Main Issue

3. The main issue is the effect of the proposed development on the vitality and viability of the Bury Road District Shopping Centre (BRDSC).

Reasons

4. The appeal premises are located on the corner of Waldeck Road and Bury Road and comprise a dwelling, shops, an office and storage areas. Whilst the streets nearby and the frontage on the opposite side of Bury Road are within the BRDSC, the appeal site is not.
 5. Saved Policy S1 of the Luton Local Plan (2006) (LP) makes clear that the Council will apply a sequential approach to the assessment of proposals for development falling within Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO). It requires applicants to consider appropriate locations in existing centres first; then edge of centre locations before considering the development of such uses on out of centre sites. This approach is consistent with the aims of paragraph 24 of the National Planning Policy Framework (the Framework).
 6. The application form makes clear that the proposal among other things seeks approval for an additional 150 square metres of floor space falling within Class A1 of the UCO. This floorspace is identified as G1 on the appeal plans and would form part of the Bury Road frontage which is outside of the BRDSC. The
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proposed development would therefore provide additional floor space falling within Class A1 of the UCO outside of an existing centre.

7. I acknowledge the appellant's comments that there are few vacant units in the BRDSC and that it is a relatively busy and vibrant centre. I have also considered there are a number of main town centre uses nearby which are also not within the BRDSC including those already operating on the ground floor of the appeal premises.
8. However, there is no substantive evidence before me which sufficiently demonstrates that alternative sites within the BRDSC or on the edge of the centre are not available or have even been considered.
9. That said, should such alternative sites be available to allow a substantial amount of retail development in this location would be harmful to the vitality and viability of the BRDSC.
10. I am therefore led to the conclusion that the proposal is in conflict with saved Policy S1 of the LP and paragraph 24 of the Framework which taken together, aim to ensure new development supports the viability and vitality of existing centres.

Other Matters

11. I have considered the Council's concerns with regard to the impact of the proposed development on the character and appearance of the area, the living conditions of nearby residents and future occupiers and parking. However, as the proposal is in outline with all matters reserved, particularly the scale and form of the buildings proposed, I am unable to make an accurate assessment of these matters. Furthermore, as I am dismissing the appeal for other reasons I have not considered these matters in any further detail.
12. I have also noted the existing appearance of the appeal premises and the regeneration benefits of the proposal. I also note the scheme would create new employment opportunities and provide new homes in the area. However, these matters or any others raised do not outweigh the harm I have identified.
13. I also acknowledge that the appellant is dissatisfied with the Council's handling of the planning application. However, this is a matter which would need to be pursued with the Council. I confirm that I have had regard only to the planning merits of the proposal.

Conclusion

14. For the reasons set out above, I conclude that the proposed development is in conflict with the development plan and the Framework. Thus the appeal should be dismissed.

L Fleming

INSPECTOR