



Appeal Decision

Site visit made on 17 July 2019

by Stephen Wilkinson BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2019

Appeal Ref: APP/B0230/W/19/3227310

29 Barbers Lane, Luton, Bedfordshire LU1 2HZ

- 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 M Mahmood against the decision of the Borough of Luton.
 - The application Ref 18/01741/FUL, dated 12 November 2018, was refused by notice dated 2 April 2019.
 - The development proposed is revised details of scheme to elevations of scheme 14/00183/FUL (4 flats).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although there is some dispute between the parties as to whether the works subject to this appeal are actually pursuant to the implementation of a previous permission (ref 14/00183/FUL), the local planning authority (LPA) considered that the extent of change from the permitted scheme was so significant it had to be considered in its entirety. Accordingly, it amended the description of proposed development as an application for retrospective planning permission for alterations to approved scheme, 14/00183/FUL including changes to the floor plans, elevations, materials and roof height. My decision is based on this description.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of designated heritage assets,
 - whether it would provide an acceptable dwelling mix
 - its effects on the living conditions of occupiers of the flats
 - its effects on the vitality of the town centre.

Reasons

Designated heritage assets

4. The appeal building comprises a 4-storey property on the west side of Barbers Lane which is a narrow pedestrian route between Guildford Street and Silver

Street. The site lies within the Plaiters Lea Conservation Area (CA). The CA was designated in 1991 to preserve the area's historic interest derived from its development as a centre of the hat making industry. It includes buildings formerly used as factories and warehouses dating from the late nineteenth and early twentieth centuries. Many of these are included in the statutory list and others are locally listed. Despite the area undergoing regeneration it retains a distinct character based around these historic buildings. These buildings have a range of architectural styles and storey heights but share a common palette of materials comprising brick and welsh slate.

5. No.47 Guildford Street, a grade II listed, three storey former hat factory, reflects this history having been built in 1860 in local grey brick with stucco dressing and with a Welsh slate roof. Although the building's main frontage is to Guildford Street it has a return frontage to Barbers Lane, with its upper floors set back from Barbers Lane. It shares a party wall to the appeal site. This listed building makes a significant contribution to the character of the CA.
6. The appeal site originally formed part of a short terrace of 3 storey properties in mixed use. Lying opposite the site is a car park surrounded by hoardings. The appeal site is prominent when viewed from Guildford Street and Cheapside.
7. The original application, Ref 14/00183/FUL involved the conversion and extension of the existing property into 4no. 2 bed flats. The extension included a new, third floor with a ridge line designed to sit below the level of the neighbouring listed property.
8. In contrast, the scheme as built, has a ridge line approximately 2m higher than originally permitted. The appellant has stated that this change results from technical details requiring adequate floor protection and acoustic insulation between the flats. The result of this is that the building's ridge height sits significantly higher than that of 47 Guildford Street.
9. Given the location of the appeal site which sits forward of the listed building, the roof extension is prominent and adversely affects the setting of this designated heritage asset. The level of harm is compounded by the unsympathetic use of materials including the cement render to the front, design of fenestration, use of red brick in a vibrant tone and roof tiles. Moreover, the roof extension as built adds to an intrusive form of development which adversely impacts on the character of the neighbouring listed building.
10. I attach considerable importance to this listed building given its contribution to the Plaiters Lea CA and conclude that the proposals would amount to substantial harm to these designated heritage assets.
11. The National Planning Policy Framework (the Framework) requires that great weight be given to the conservation of designated heritage assets. Any harm to, or loss of, the significance to a designated heritage asset requires clear and convincing justification. Substantial harm to or loss of grade II listed buildings should be exceptional. Permission should be refused unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits. Whilst the appellant has identified that he has improved a building which was originally in a poor state of repair this does not outweigh the substantial harm which arises. In addition, for the reasons given below, I

do not consider that there are substantial public benefits arising from the provision of housing.

12. Policies LLP1, LLP11, LLP25 and LLP30 of the Luton Local Plan (2017) (LP) seek amongst other matters to support sustainable development and in particular to secure high quality design which respects designated heritage assets. I find that the appeal proposal would result in substantial harm to designated heritage assets contrary to these policies and the Framework.

Dwelling mix

13. Policies LLP1 and LLP15 support sustainable housing development and identify Luton town centre as a place for higher densities. The permitted scheme provided for the creation of 4no. 2 bed flats compared to the completed scheme which involves the creation of 3no. 1 bed flats and 1 studio flat. The LPA objects to the current mix on the grounds that, based on current rates of housing delivery, there is likely to be an undersupply of 2 bed units by the end of the plan period compared to 1 bed units.
14. I attach considerable importance to this issue given the national priority for housing delivery included in the Framework and the LPAs concerns over the potential for a shortfall in delivery of 2 bed units during the plan period. The appellant has identified the potential for a shortfall in delivery of the LPA's housing target although this has not been supported by any substantive evidence.
15. The appellant cites the precedent of permissions in adjacent streets where conversion to 1 bed units, in breach of the Council's targets has occurred. However, these do not justify an under provision of 2 bed units at this site. I conclude that the proposals are contrary to LP policies LLP1 and LLP15.

Living conditions

16. Policies LLP1 and LLP25 of the adopted Local Plan seek to improve the quality of the environment and support the principles of sustainable development. The proposed layout of the appeal scheme would involve the creation of 3no. 1 bed flats and 1 studio flat with floor areas of between 19-38sm. These floor areas fall far below the Government's adopted internal space standards (2015) for flats. Although these standards do not form part of the adopted plan I regard them as material to this application. The proposed flats fail these standards and would result in substandard accommodation contrary to Policies LLP1 and LLP25 of the Luton LP 2017.

The vitality of the town centre

17. The LPA's adopted policies LLP1, LLP3, LLP11, and LLP25 seek to encourage the vitality of the town centre and the creation of a Cultural Quarter. These policies are complemented by the policies to preserve and enhance the character and appearance of the Plaiters Lea CA . Whilst I acknowledge the LPA's argument relating to the loss of a café, I find that Barbers Lane is not a main pedestrian thoroughfare and has little footfall. The ground floor of the appeal site has no opportunities for servicing with no rear access and space for the storage of refuse. Accordingly, I find that on this fourth main issue the loss of the café would not be contrary to Policies LLP1, LLP3, LLP11 and LLP25.

Other Matters

18. The appellant cites the proposed development of Power Court as a precedent for new development comparable to the appeal scheme. However, I have not been provided with full details of this scheme and what led to it being considered acceptable by the LPA. From the limited information I have, it appears that Power Court lies outside the CA in any case. Consequently, there is no basis for any useful comparisons to be drawn between the Power Court scheme and the one before me. Notwithstanding this, I have considered this appeal on its own merits.
19. The Council has identified the adverse visual impacts of the appeal proposal on the living conditions of surrounding occupiers although it is unclear their evidence for this. I do not regard this as a main issue.

Conclusions

20. Whilst I have not found that the proposal would harm the vitality of the town centre, it would fail to preserve the character or appearance of the Plaiters Lea Conservation Area and result in substantial harm to a grade II listed building. Furthermore, it would not provide sufficient 2 bed units as required by the LPA and would result in unacceptable living conditions for occupiers of the flats.
21. For the reasons given above, I conclude that the appeal should be dismissed.

Stephen Wilkinson

Inspector