
Appeal Decision

Site visit made on 11 August 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020.

Appeal Ref: APP/B0230/W/20/3248466

61 Farley Hill, Luton LU1 5EG

- 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 R Maksymiak against the decision of Luton Council.
 - The application Ref 19/01362/FUL, dated 1 October 2019, was refused by notice dated 27 December 2019.
 - The development proposed is the conversion and change of use from single family dwellinghouse to two two-bedroom flats and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for conversion and change of use from single family dwellinghouse to two two-bedroom flats and associated works at 61 Farley Hill, Luton LU1 5EG in accordance with the terms of the application, Ref 19/01362/FUL, dated 1 October 2019, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: A-061-PD-LU-SL-001 Rev 1; A-061-PD-LU-BP-002 Rev 1; A-061-PD-LU-PL-101 Rev 1; A-061-PD-LU-PL-100 Rev 01; A-061-PD-LU-EL-201 Rev 1; A-061-PD-LU-EL-200 Rev 01.
 - 2) Notwithstanding condition 1) prior to the commencement or continuation of any above ground construction works relating to the access and parking area shown on the approved plans, a scheme for the layout and construction of the parking and access area shall be submitted in writing to the local planning authority for approval. This should include; structural details relating to any retaining wall(s) and their interactions with the foundations of existing buildings; details of surfacing and drainage of the parking and service areas; details of visibility splays. The development shall be carried out in accordance with the approved details prior to the access or parking areas being brought into use and shall be retained as such thereafter.

Preliminary Matters

2. Works to the building to facilitate the conversion of the dwelling into the flats were underway at the time of my visit. However, these did not appear fully complete and the building was unoccupied. The fenestration on the rear dormer also did not match that shown in the submitted plans. For the avoidance of doubt, I have considered the appeal on this submitted plans only.

3. The Council did not originally submit any suggested conditions with the appeal. However, the Highways Authority comments on the application included suggested conditions relating to the proposed parking areas. I asked the main parties for comments on these conditions have had regard to the responses in my decision.

Main Issues

4. The main issues in this appeal are the effect of the development on (i) the housing mix of the area, and (ii) the character of the area.

Reasons

Housing mix

5. The appeal relates to a semi-detached dwelling in a predominantly residential area. In terms of housing mix, the Council's primary concern is that the development would reduce the number of the three bedroom family dwellings, for which there is a significant identified need.
6. The Strategic Housing Land Availability Assessment (SHLAA)(2019) data provided in the Council's officer report indicates that, compared to the need identified, there has been a significant oversupply of one bed dwellings and a shortfall in two, three and four-plus bed units. The shortfall of three bed units is particularly significant.
7. Luton Local Plan (LLP)(2017) Policy LLP15 states that provision will be made for 8,500 dwellings to meet housing needs, provided that reflects the needs requirements set out in the Strategic Housing Market Assessment (SHMA). The policy also states that development should achieve a mix of different housing sizes, types and tenures, informed by various evidence. The data provided is from the SHLAA rather than the SHMA. However, this still suggests that there remains a need for two bed dwellings across the district. This is confirmed in the officer report.
8. The need for three bed dwellings appears significantly larger than that for two bed units. The loss of a single three-bed dwelling would therefore marginally increase the need for such units across the district. However, the development would still help meet a recognised need in itself. This would remain consistent with the above policy's requirement of meeting identified needs and contributing to a mix of dwelling types. The development would be beneficial in this regard. In balancing these two aspects, the harm to the overall housing mix of the district, or that of the immediate locality, would be negligible.
9. I acknowledge that the Council wish to give priority in such circumstances to the retention of the original family dwelling. However, the policies quoted to me do not include any specific preclusion for the conversion of dwellings into flats. I have also had regard to the Council's comments on the difficulties they face in addressing the specific shortfall. There is also nothing to suggest that allowing this appeal would have a significant impact on the overall housing mix, either individually or cumulatively with other proposals. Neither would it clearly be the case that the development would prejudice the Council's ability to address specific shortfalls in supply through the development of new housing in the longer term.

10. The development would not therefore result in unacceptable harm to the housing mix of the area. Accordingly, there would be no conflict with LLP Policy LLP15 which seeks to ensure housing meets the needs identified in the SHMA. There would also be no conflict with Policy LLP1 which states that permission will be granted for development which accords with the development plan.
11. There would also be no conflict with the National Planning Policy Framework (the Framework). In particular, the requirements of section 5 which, amongst other things, establishes the requirement for Councils to plan for a mix of housing types and needs.

Character

12. There is no evidence to suggest that any of the other similar semi-detached properties along the street have been converted to flats. The introduction of flats into a semi-detached unit would therefore alter the prevailing character of the area to a very small degree. Although there may be more comings and goings associated with the dwelling than if it remained a family dwelling, any change is unlikely to be particularly significant in scale or nature. This will still constitute a residential use in a relatively dense residential area.
13. Although I acknowledge the Council's concerns are not with the appearance of the building, it is nevertheless the case that the external alterations would provide no overt sign of the conversion. There are also purpose built flats in the vicinity of the site. As such, this type of accommodation is not completely alien.
14. The rear garden is already comprised of a number of separate 'terraces', which are reached by steps. This is largely out of necessity due to the very steep slope. The proposal seeks to split the garden into two, with occupants of 'flat 2' having access to the upper area of the garden, which would be accessed alongside the space given over to 'flat 1'. It may be unusual for the garden of 'flat 2' to be a short distance from the building and accessed alongside the garden of the downstairs neighbour. However, the passage to the garden would be accessed directly from the side door and the distance is not prohibitive. There is also already a somewhat 'segmented' appearance to the garden. The overall impact on local character or appearance would be minimal. Ultimately, the space would still be used as a private garden and the fact it would be split between two households would not have a significant impact.
15. I am therefore satisfied that the development would not have an unacceptable impact on local character. Accordingly, it would not conflict with LLP policies LLP1 and LLP25 which seeks, amongst other things, to preserve the character of an area, ensure development provides continuity of built form and optimises higher densities. There would also be no conflict with section 12 of the Framework which includes requirements for development to be sympathetic to local character while not preventing or discouraging change, such as increased densities.

Other Matters

16. The Council raised no objections in relation to the impact on neighbours' living conditions. I saw nothing that would lead me to a different conclusion. The dwelling has already been extended and could accommodate a similar number of residents without or without the conversion taking place. I am therefore satisfied that there would be no reason in principle why the development would

lead to material harm through noise and disturbance. The conversion would also not lead to any material change to such matters as overlooking.

Conditions

17. As the works did not appear to be complete, it is necessary to impose a condition specifying the relevant drawings as this provides certainty. However, as the development has started, it is unnecessary to impose the standard condition on timescales.
18. The Council suggested three conditions relating to the construction of the parking area, including surface drainage, and the provision of visibility splays. I have considered these in accordance with the Planning Practice Guidance.
19. The appellant has indicated his acceptance of these conditions. However, I note in relation to the requirement for visibility splays that there is an existing garage abutting the proposed parking area to one side. The space to the other side may be limited by the staircase and refuse store. In imposing conditions, I must be satisfied they can be discharged. The evidence before me is not clear that visibility splays of the size suggested are achievable.
20. Nevertheless, having considered the context of the proposal, the fact there are other accesses and garages on the street which may have similar constraints and potential risks, I am satisfied that a satisfactory form of access can still be achieved. With this in mind, I have amended the condition to include a requirement for details of visibility splays to be submitted and approved by the Council. This will ensure the specific nature of the site and any constraints are properly considered and addressed.
21. I am satisfied that conditions relating to the details of any retaining walls and surface drainage are necessary to ensure the parking area would be safe and properly drained. However, I have not accepted the Council's suggestion with regard to the timing of the implementation of the works to retaining walls. I see no reason why this need be completed within three months of any approval. What is important is that any works should be carried out and completed in accordance with the approved details. Similarly, I note that the Council's suggested condition for approving details of surfacing and draining is tied to any above ground construction works commencing. It would seem logical that any details relating to any retaining walls and visibility splays should be agreed at the same time. This would ensure that all relevant aspects of the parking areas are addressed prior to any construction works taking place.
22. On this basis, I have subsumed the requirements of the three suggested conditions into a single condition which requires the appellant to submit details of the retaining walls, surface drainage and visibility and that all associated works must be carried out and completed in accordance with the approved details prior to the parking area being brought into use. This condition does not materially alter the burden on the appellant to provide the relevant information and/or visibility splays.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

S J Lee INSPECTOR