



Appeal Decision

Site Visit made on 19 January 2021

by **Bhupinder Thandi BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 February 2021

Appeal Ref: APP/B0230/W/20/3260984

30A King Street, Luton LU1 2DP

- 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 Touqeer Hussain Shah against the decision of Luton Borough Council.
 - The application Ref 20/00490/FUL, dated 23 April 2020, was refused by notice dated 8 July 2020.
 - The development proposed is erection of two additional floors to provide Class B1 (office) use.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two additional floors to provide Class B1 (office) use at 30A King Street, Luton LU1 2DP in accordance with the terms of the application, Ref 20/00490/FUL dated 23 April 2020 subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the character and appearance of the host property and the area including whether it would preserve or enhance the character or appearance of the Town Centre Conservation Area (CA); and
 - The effect of the proposed development upon the vitality and viability of Luton town centre.

Reasons

Character and appearance

4. The appeal property is a single storey building located within the Luton town centre CA. The front elevation has a stucco finish and includes rusticated

pilasters and an archway over the entrance. The property neighbours 30 King Street – an ornate single storey brick building to one side and a taller modern building with a mansard roof to the other.

5. The single storey scale of the appeal property and No.30 are somewhat at odds with the scale of buildings along King Street which are taller. King Street has a mix of attractive historic buildings and more modern ones varying in terms of design, width, scale and roof forms. The historic buildings tend to be two and three storey and include rustication at ground floor with ornate detailing around upper floor openings and simple roof forms which positively contribute to the character of the area.
6. There is no doubt that the proposed development would alter the appearance of the building with the addition of two floors. However, I am mindful of the planning history for the property which includes planning permission for the construction of an additional floor largely replicating the appearance and scale of the ground floor. Based on the evidence before me there is a reasonable likelihood of this being implemented were I to dismiss this appeal. This alternative establishes a fallback position in this case and the principle of additional height to which I attach significant weight.
7. The proposed first floor in terms of appearance would be sympathetic to the host property largely replicating the design and proportions of the ground floor including rusticated pilasters, window detailing including timber windows and a parapet. The rustication at first floor level would not be significantly dissimilar to the ornate detailing on the upper floors of buildings in the area.
8. The mansard roof, whilst modern, would have a simple form, set in from the front and rear. The recessed and simple form of the roof would successfully juxtapose traditional and modern design and would sit comfortably on top of the building in keeping with the area's roofscape.
9. Whilst the proposed development would be higher than No.30 it would not undermine its character given taller buildings already neighbour it. The design, scale and form of the proposed development would be in keeping with that of the host property and nearby historic properties and would sit unobtrusively within the street.
10. I conclude that the proposed development would preserve the character and appearance of the CA and would cause no harm to its significance and similarly it would result in no harm to the host property. It would accord with the National Planning Policy Framework (the Framework) and Policies LLP1, LLP3, LLP25 and LLP30 of the Luton Local Plan (2017) (LP) which, amongst other things, seek to enhance the distinctiveness and character of an area including in terms of street scene, form, scale height and materials; maintain and enhance heritage assets; and protect, conserve and enhance the town's unique and rich heritage.

Vitality and viability

11. The appeal site is located within Luton town centre and is currently occupied by a solicitor's firm. King Street contains a number of commercial and retail uses.
12. Policy LL13 of the LP sets out a positive economic strategy for delivering jobs and sustainable economic growth. LP Policy LLP14 seeks to protect employment areas and encourages the redevelopment, extension and intensification of B1

uses subject to a number of criteria. It makes clear at criterion i. that development should not have unacceptable amenity or traffic implications.

13. I have found that the proposed development would not undermine the character and appearance of the area. The proposal would provide additional office floor space in the town centre where such development is encouraged. The provision of additional employment floorspace within a town centre location would contribute towards economic regeneration and sustainable economic growth.
14. Accordingly, I conclude that the proposed development would not undermine the vitality and viability of Luton town centre and would accord with LP Policies LLP13 and LLP14 which, amongst other things, support sustainable economic growth and prosperity and encourage the extension and intensification of B1 uses that do not have unacceptable amenity implications.
15. It would also accord with paragraphs 8 a) and 80 of the Framework which, amongst other things, seek to help build a strong, responsive and competitive economy and create conditions in which businesses can invest, expand and adapt.

Other Matters

16. The Council consider that the proposal would set an unwanted precedent for similar proposals in the area. However, every appeal is considered on its own merits and in this particular case there is no substantive evidence to indicate that the proposal would result in a precedent.
17. It is not within the scope of a Section 78 appeal to determine whether a building should be locally or statutory listed, as such I have not taken this into consideration in coming to my decision.
18. The Council contend that the proposed development would result in overlooking of the amenity space belonging to 14 Stuart Street. Whilst there would be additional windows in the rear elevation given the proposed development would likely be occupied during weekdays, rather than at weekends and evenings when people would be more likely to use their amenity space, I am of the view that it is not necessary for the windows in the rear elevation to be obscure glazed.

Conditions

19. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
20. A condition relating to external materials has been imposed to ensure the satisfactory appearance of the development. In the interests of highway safety a condition for a Construction Method Plan has been imposed.
21. The Council has suggested a condition for details of the storage of waste and recycling. However, no clear justification has been provided for the condition. As such it has not been imposed.

Conclusion

22. For the reasons set out above the appeal succeeds.

B Thandi

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: Existing Plan and Elevations Drawing Number 01/05; Proposed Plans Drawing Number 02/05; Proposed Elevations Drawing Number 03/05; Street Elevation Drawing Number 04/05 and Location and Block Plan Drawing Number 05/05.
- 3) No development shall take place, 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 Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) Prior to the above ground works taking place details and samples of the materials to be used in the construction of the external surfaces of the proposed development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.